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Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY JAN. 8, 1996, 3:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM
SAN FRANCISCO

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I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III. Discussion and Possible Action Re: Minutes: Meetings of June 12, July 10, October 17, November 20, and December 11, 1995

IV. Chair's Report
A. Calendar of meetings for 1996
B. Announcement of Open House

V. Director's Report (Presented for Jane Rubin by Ginny Vida)
A. Updates
B. Projects and Activities

VI. Discussion and Possible Action Re: Amendment of By-Laws

VII. Discussion and Possible Action Re: Scheduling of Special Meetings: Work Plan

VIII. Discussion and Possible Action Re: Policy re: Non-Active Candidates/Committees

IX. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

X. Closed Session Pursuant to Ralph Brown Act, Section 54957 and Sunshine Ordinance Section 67.11, Personnel (Performance Evaluation)

XI. Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: Personnel (Performance Evaluation)

XII. Adjournment

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MINUTES OF THE SAN FRANCISCO ETHICS COMMISSION MEETING

1390 Market Street, Mezzanine Conference Room 227

January 8, 1996

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:10 p.m. The following were present:

MEMBERS PRESENT:	Virginia C. Gee, Chair; Jo Ann Hendricks, Vice-Chair; Geoffrey Gordon-Creed, Commissioner; Brant T. Lee, Commissioner
STAFF PRESENT:	Ginny Vida, Investigator/Auditor; Cheryl Bernstein, Whistleblower/Educator; Shawn Allison, Administrative Assistant
OTHERS PRESENT:	Anita Mayo, Pillsbury, Madison & Sutro; James Chaffee, Chair, Sunshine Ordinance Task Force

II. Public Comment re: Matters appearing or not appearing on the agenda. There were no comments from the public.

III. Discussion and Possible Action Re: Minutes: Meetings of June 12, July 10, October 17, November 20, and December 11, 1995.

96-1-8-1 (Gee/Gordon-Creed) Moved, seconded and passed to approve the minutes of June 12, 1995, as corrected.

96-1-8-2 (Gee/Gordon-Creed) Moved, seconded and passed to approve the minutes of July 10, 1995, minutes as corrected.

96-1-8-3 (Gee/Gordon-Creed) Moved, seconded and passed to approve the minutes of October 17, 1995, as corrected.

96-1-8-4 Motion (Gordon-Creed, Gee) Moved, seconded and passed to approve the minutes of November 20, 1995, as corrected.

96-1-8-5 (Gee/Hendricks) Moved, seconded and passed to approve the minutes of December 11, 1995, as corrected.

Commissioner Hendricks noted that the minutes from the June 27, 1995, special meeting were missing. Ms.Vida will attempt to locate these minutes and send them to commissioners for review and adoption.

Commissioner Gee noted that Commissioner Gordon-Creed will work with commission staff on utilizing the general practices/standards and general format for minutes submitted by Commissioner Hendricks.

IV. Chair's Report

A. Calendar of meetings for 1996

B. Announcement of Open House

A. Calendar of meetings for 1996.

Commissioner Gee advised the commissioners that a calendar of meetings for 1996 was in each of their packets of materials for the meeting.

B. Announcement of Open House

Commissioner Gee reminded the commission that the open house for the commission's new office is scheduled for Monday, February 12, 1996, from 5 until 7 p.m.

Commissioner Gee requested that the staff provide the commissioners with the staff's list of invitees before the commissioners create their respective lists in order to avoid duplications. She also requested that diverse neighborhood groups be included in the list of invitees.

V. Director's Report (Presented for Executive Director Jane E. Rubin by Investigator/Auditor Ginny Vida)

A. Updates

B. Projects and Activities

Ms.Vida reported that the commission has collected more than one-half of the late fees assessed for late filings by candidates and committees to date. The commission continues to send out second and third notices and is communicating with the City Attorney's office about appropriate enforcement action regarding candidates and committees who have not paid. Ms. Vida noted that two large fines have still not been collected.

Ms.Vida reported that commission staff is keeping a log of telephone inquiries and requests for advice received from city employees and the public. A detailed report will be ready for the February 12, 1995, commission meeting.

Ms. Vida reported that Ms. Bernstein is currently working on revising the lobbyist manual. Deputy City Attorney Julie Moll is reviewing the draft.

Ms. Vida reported that all active candidates and committees have been advised by letter that the Ethics Commission is the new filing officer. She noted that the list of active candidates and committees is only a partial one.

Commissioner Gee reiterated her request for a report by Ms. Rubin on the highlights of charter reform.

Anita Mayo stated that she submitted two written requests for advice in June or July of 1995 but has not yet received a response from the City Attorney's office. Commissioner Gee requested that staff inquire about this matter, and Commissioner Gordon-Creed offered to be of assistance in expediting a response.

Commissioner Hendricks requested that staff confirm the due date for FY 1996-1997 budget requests, in order for the commission to take action on a proposed budget. She also inquired about the nature of the orientation packets that the staff is creating for new commissioners and department heads. Ms. Vida explained that the packets will contain a summary of laws on such topics as filing statements of economic interests, gift restrictions, honoraria and travel. It was agreed that the commission will review the packets before their release.

Commissioner Gee requested that staff have the packets ready by the next commission meeting for review.

VI. Discussion and Possible Action Re: Amendment of By-Laws

96-1-8-6 (Hendricks/Gordon-Creed) Moved, seconded and passed that the Ethics Commission approves the following amendments to the By-Laws: new address and phone number of the Ethics Commission; new meeting room of the Ethics Commission; mission statement of the Ethics Commission; and other typographical errors.

VII. Discussion and Possible Action Re: Scheduling of Special Meetings: Work Plan

Commissioner Gordon-Creed reported that he had met with Ms. Rubin to devise a work plan for the commission mandates. Commissioner Gordon-Creed proposed that the mandates be divided into groups and that a series of meetings to deal with each of the groups of mandates be planned.

It was agreed that the commission mandates could be divided into four groups:

- 1. Administration
- 2. Investigation
- 3. Recommendation
- 4. Education

◆ 1. Administration
Commissioner Gordon-Creed suggested that the following mandates fall under the heading of administration:

❒ running the office on a general day-to-day basis
❒ annually adjusting any limitation and disclosure thresholds imposed by city law to reflect any increases or decreases in the Consumer Price Index
❒ maintaining filings required by the Political Reform Act
❒ maintaining filings required by the lobbyist ordinance
❒ maintaining filings regarding the campaign control ordinance and contribution limits
❒ auditing documents filed with the Ethics Commission

Commissioner Gordon-Creed recommended that these mandates can be addressed as an agenda item at a single Ethics Commission meeting. He recommended that the commission address these mandates soon due to forthcoming deadlines.

◆ 2. Investigation
Commissioner Gordon-Creed suggested that the following mandates fall under the heading of investigation:
❒ investigating complaints
❒ whistleblowing hotline

◆ 3. Recommendation
The following mandate falls under the heading of recommendation:
❒ recommendations to the Mayor and Supervisors on campaign finance laws

Commissioner Gee stated that the Commission is required to make recommendations for changes in the ethics laws in its annual report and should schedule a meeting in accordance with that responsibility. Commissioner Hendricks stressed that making recommendations for change is an essential pro-active function of the Ethics Commission. Commissioner Gordon-Creed stated that the commission should schedule a separate meeting for the sole purpose of making recommendations. He suggested that the meeting be held at a much later date when both commissioners and staff have more experience with the relevant laws.

◆ 4. Education
Commissioner Gordon-Creed suggested that the following mandates fall under the heading of education:
❒ conducting educational programs
❒ publishing educational materials
❒ providing assistance to other City departments

It was agreed that the groups of mandates should be discussed at separate meetings. It was also agreed that the scheduling of these meetings should be an item on the next commission meeting agenda in order to facilitate public input. It was further agreed that

the meetings will be work plans in nature and will include suggested changes and plans for follow-up.

VIII. Discussion and Possible Action Re: Policy re: Non-Active Candidates/Committees

96-1-8-7 (Hendricks/Gordon-Creed) Moved, seconded and passed that the Ethics Commission shall ask the Office of the City Attorney if the commission has statutory authority to use discretion in waiving penalties and offering amnesty to non-active committees and candidates amnesty if they submit termination forms, and further, if the commission has the authority to make this change, that once the termination forms are received by the commission, the candidates and committees will not be penalized for previously missed filings covering periods of no activity.

IX. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

James Chaffee, Chair of the Sunshine Ordinance Task Force, expressed appreciation for the commission's inclusion of "Know Your Rights Under The Sunshine Ordinance" on the agenda notice.

Mr. Chaffee offered to give commission staff a bill of rights on the Sunshine Ordinance for the orientation packets the commission is developing.

Mr. Chaffee detailed several projects the Task Force is working on: a bill of responsibilities under the Sunshine Ordinance on public meetings and public documents; database standards for mandated public access; and a request of the Office of the City Attorney to resolve a conflict between state law and the Sunshine Ordinance regarding conducting meetings within public view.

Commissioner Hendricks noted that items for the next agenda had been omitted from the agenda for today's meeting. Commissioner Gee requested that this item be included on agendas in the future.

X. Closed Session Pursuant to Ralph Brown Act, Section 54957 and Sunshine Ordinance Section 67.11, Personnel (Performance Evaluation)

The Commission began a closed session meeting at 5:05 p.m.

XI. Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14

96-1-8-8 (Gee/Gordon-Creed) Moved, Seconded, and passed that the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: Personnel (Performance Evaluation).

XII. Adjournment

The meeting was adjourned at 6:00 p.m.

Respectfully Submitted,

_____
Cheryl Bernstein
Whistleblower/Educator

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Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF SPECIAL MEETING FOR MONDAY, FEB. 5, 1996, 3:30 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM
SAN FRANCISCO

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I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III. Discussion and Possible Action Re: 1996-97 Annual Budget Approval

IV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

V. Adjournment

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MINUTES OF THE SAN FRANCISCO ETHICS COMMISSION MEETING

1390 Market Street, Mezzanine Conference Room 227

February 5, 1996

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:40 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Jo Ann Hendricks, Vice-Chair; Geoffrey Gordon-Creed, Commissioner; Brant T. Lee, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Cheryl Bernstein, Whistleblower/Educator

OTHERS PRESENT: Deputy City Attorney Julie Moll, Office of the City Attorney; Bruce Petitt, The Independent; Robert Pender, Tenants Network

It was agreed that the closed session for performance evaluation of Commission personnel will be postponed from February 12, 1995, to February 21, 1995 at 3:00 p.m. in the Mezzanine Conference Room 227 of Fox Plaza.

II. Public Comment re: Matters appearing or not appearing on the agenda. There were no comments from the public.

III. Discussion and Possible Action Re: 1996-97 Annual Budget Approval

Executive Director Jane E. Rubin reported that the Mayor's Budget Office had granted a ten day extension for submission of department budget requests, with the exception of the budget Summary of Changes which is due February 12, 1996. All other documents are now due February 22, 1996.

Ms. Rubin reported that the revenue of the Ethics Commission is estimated to increase to $8,000 for fiscal year 1996/1997. She explained that this revenue goes into the general fund.

Ms. Rubin noted that there should be a change in the budget request for part-time temporary help in fiscal year 1996-1997. Last year $5,520 was requested to be split between the Ethics Commission and the Registrar of Voters. Due to the functions that have been transferred to the Commission, the full $5,520 has been requested for the Commission in fiscal year 1996-1997.

Ms. Rubin reported that an increase of $2,008 in fringes has been requested in order for Commissioner Gordon-Creed to receive health insurance coverage through the City. She noted that this item would be added to the amount for fringe benefits the Ethics Commission receives in fiscal year 1996-1997.

Ms. Rubin explained that budget instructions require travel, training and membership fees to be specified and identified separately. Regarding the travel category, the Executive Director has requested to participate in the Council on Governmental Ethics Laws conference to be held in Philadelphia in December 1996.

Regarding the training category, staff will need to attend Fair Political Practice Commission seminars in the area (Sacramento, San Jose, etc.) and will need to be reimbursed for travel expenses. Staff will also need to attend computer training to become proficient in various computer applications. She noted that computer classes administered by the city charge for city employees.

Ms. Rubin explained that the Commission is required to submit a status quo base budget. The current year base budget is $255,000. The fiscal year 1996-1997 base budget will be $280,000. The $25,000 increase is primarily due to the automatic step increases required for Commission staff positions.

Beyond the base budget request, Ms. Rubin reported that the proposed change is a $110,000 request for non-mandated, non-required department expenditures. Specifically, the budget proposal requests two additional staff members: one full-time auditor and one full-time clerical assistant. The budget proposal requests that $27,500 of the non-mandated, non-required department expenditures be designated for the areas of staff development, technical support, educational materials, and equipment.

Commissioner Gordon-Creed suggested that the budget narrative explain that the Commission is mandated to audit financial disclosure statements.

Commission Vice-Chair Hendricks suggested that the budget narrative reflect the language from the San Francisco Charter to show that the budget requests are necessary to fulfill the Commission mandates.

Ms. Rubin reported that in the area of technical support, the Commission staff does not have the expertise for hardware configuration, network systems, computer programs or navigation of the Internet. The budget proposal includes a request for funding of a student intern and/or for a work-order relationship with the city's own computer support department, Information Services Division.

The following motion was passed unanimously:

96-2-5-9 (Hendricks/Gordon-Creed) Moved, Seconded, and Passed: The Ethics Commission accepts Executive Director Jane E. Rubin's 1996-1997 budget proposal recommendations which will enable the Commission to fulfill its mandates.

IV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

Mr. Robert Pender of the Tenants Network suggested that the Commission read information he had brought on San Franciscans for Democratic County Central Committee. He passed out copies of his newspaper, "Tenant Times".

Mr. Pender stated that the Commission must remember that every individual does not have access to and funding for computers, and that some organizations still use old-fashioned book-keeping methods. He stated that as treasurer for Proposition I in 1994, he was fined $20 by the Commission for a late filing. He stated that his filing had not been late, but had been delayed during the transition of duties from the Registrar of Voters to the Ethics Commission.

V. Adjournment

The meeting was adjourned at 5:00 p.m.

Respectfully submitted,

_____
Cheryl Bernstein
Whistleblower/Educator

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY FEB. 12, 1996, 3:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM
SAN FRANCISCO

I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III. Discussion and Possible Action Re: Minutes: Meetings of January 8 and February 5, 1996

IV. Chair's Report
- A. Invitation to Open House
- B. Announcement of Orientation for New Commissioners and Board Members
- C. Revision of Bylaws

V. Director's Report
- A. Updates
- B. Projects and Activities

VI. Discussion and Possible Action Re: Revision of Lobbyist Manual.

VII. Discussion and Possible Action Re: Scheduling of Special Meetings: Work Plan

VIII. Discussion and Possible Action Re: Campaign Finance Reform Ordinance (Proposition N) implementation

IX. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

X. Adjournment

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SAN FRANCISCO ETHICS COMMISSION MEETING

1390 Market Street, Mezzanine Conference Room 227
February 12, 1996, 3:00 p.m.

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:10 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Jo Ann Hendricks, Vice-Chair; Geoffrey Gordon-Creed, Commissioner; Brant T. Lee, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Ginny Vida, Investigator/Auditor; Cheryl Bernstein, Whistleblower/Educator; Shawn Allison, Administrative Assistant

OTHERS PRESENT: Anita Mayo, Pillsbury, Madison & Sutro; Julie Moll, Office of the City Attorney

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda.
There were no comments from the public.

III. Discussion and Possible Action Re: Minutes: Meetings of January 8 and February 5, 1996.

96-2-12-10 (Gee/Gordon-Creed) Moved, Seconded, and Passed: To approve the minutes of the January 8, 1996 meeting as corrected.

Commissioner Hendricks requested that in the future, all motions be numbered in the minutes.

Commissioner Gordon-Creed noted that he has reviewed a draft of the minutes of the February 5, 1996 special budget meeting. These will be sent to Commission members prior to the next meeting scheduled for March 11, 1996.

Review of minutes of a special meeting held on June 27 was held over for the March Commission meeting. Ginny Vida will attempt to locate the minutes or a taped recording of the meeting.

IV. Chair's Report.

A. Invitation to Open House. Commissioner Gee reported that the Ethics Commission's Open House will be held today from 5:00 to 7:00 p.m. at the Commission office, 1390 Market St., Room 701. About 30 people are expected. Brief remarks, scheduled to begin at 5:45 p.m., will include introduction of Commission and staff members and a brief history of the Commission.

B. Announcement of Orientation for New Commissioners and Board Members. Commissioner Gee reported that the Mayor has scheduled an orientation for new commission members and board members on Saturday, February 24, from 9:00 a.m. to 12 p.m. at the Herbst Theatre. Commissioner Gordon-Creed will represent the Commission at this event and if possible will send an outline of his presentation to Ethics Commission members prior to February 24. A packet of materials regarding ethics laws will be provided to new commissioners and board members subsequent to the orientation. The Commission has agreed to work with the City Attorney's Office on these materials to avoid confusion and duplication of effort. Commissioner Hendricks requested that the materials be reviewed by members of the Commission prior to distribution. Executive Director Jane Rubin noted that the entire February 24 orientation will be videotaped.

C. Revision of Bylaws. Commissioner Gee reported that the by-laws have been revised and were distributed at today's meeting.

V. Director's Report.

A. Updates.

Meeting with the Mayor. Ms. Rubin reported that Mayor Brown had asked to meet with her and a representative of the City Attorney's Office to discuss his wish to strengthen provisions of the Charter relating to conflict of interest. The meeting took place on January 10. Dennis Aftergut of the City Attorney's Office was present. Ms. Rubin informed the Mayor that the Commission would be glad to review and comment on changes the Mayor proposed. There was no discussion of what section of the Charter the Mayor wished to amend. The City Attorney's Office is drafting proposed changes for the Mayor.. Julie Moll of the City Attorney's Office said that until the Commission receives a draft of the changes, there is nothing on which the Ethics Commission can comment.

Technology Update. Ms. Rubin reported that technology updates are ongoing in the Commission office. The Commission has retained Information Services Division (ISD) to connect the Commission office to the Local Area Network (LAN). Filers of campaign disclosure statements have started to file electronically with the Commission. A list of equipment needed to complete installation of the new technology is being developed and will be sent out for bid. ISD is

handling this for the Commission on a fee basis. The Commission is exploring the possibility of linking to the City Attorney office's router for E-mail.

Staff Training. Ms. Rubin noted that in January, Commission staff members attended FPPC seminars on campaign disclosure statements and statements of economic interests in Sacramento and San Jose. Commissioner Gee requested that future notices of seminars be shared with Commission members.

Budget. Ms. Rubin reported that the portion of the Commission's budget request for FY 96-97 which proposed non-mandated changes was due, and was delivered to the Mayor's Office today. The remaining budget documents are due in 10 days. Ms. Rubin met with a representative of the Controller's Office, who agreed to make changes in the Controller's reports to reflect the technical adjustments recommended by Ms. Rubin. These changes will be consonant with the Commission's budget interests.

B. Projects and Activities

Filings. The deadline for filing the semi-annual campaign disclosure statements by candidates and committees was January 31, 1996. The Commission is now the filing officer for these statements. In late December the Commission sent a letter to candidates and committees notifying them of its new role and filing deadlines. Still, many filed in the wrong place. Electronic filing of statements went very well; all material was received and processed. The Commission staff is able to input the disks and copy them for the media and other interested parties.

Paper (hard copy) filings were also received. Staff copied documents for the public file, and collected 10 cents a page for copies. Statements of major candidates and committees were filed timely. Whether the Ethics Commission or the Registrar's office will act as filing officer for state/local committees remains a jurisdictional issue which is being reviewed by the City Attorney's Office.

Commissioner Hendricks suggested that as filing officer for campaign disclosure statements, the Commission will need an additional auditor on staff to assist the Commission with its new responsibilities with respect to implementation of Proposition N (see agenda item VIII, p. 7).

Lobbyist statements were filed in January. Cheryl Bernstein prepared a summary report of the lobbyist filings and a press release highlighting noteworthy information which resulted in press coverage in the Examiner. The next lobbyist filing is due April 15, 1996.

As of January 1, the Commission assumed responsibility as filing officer for statements of economic interests submitted by department heads and members of boards and commissions. Ginny Vida is coordinating this project. The Commission has sent a mailing to filers notifying them of the Commission's new role and of the filing deadlines, and supplying appropriate forms. Once filed, the forms have to be audited. About 400 forms will be filed with the Commission.

Inquiries and Advice. The Commission continues to respond to numerous inquiries and requests for advice on financial disclosure statements, lobbyist statements, statements of economic interests, and other ethics-related matters.

VI. Discussion and Possible Action Re: Revision of the Lobbyist Manual.

The City Attorney's Office has reviewed the revised draft of the Lobbyist Manual, which has been distributed to Commission members today for their review. The goal in redrafting was to make the manual more clear and informative than the previous version. Ms. Rubin noted that staff wished to have the new draft approved at the March 11 meeting so that the manual could be distributed in advance of the April 15 filing deadline. Commissioner Gee appointed Commissioner Lee to work with Cheryl Bernstein on preparation of a final draft. Commissioner Gordon-Creed advised that the current draft did not contain the revised filing forms. These will be forwarded to Commission members within one week.

Commissioner Hendricks requested that in the future, the Director's Report be sent to Commission members along with the agenda, in advance of the Commission meeting.

Commissioner Gee requested that the Commission provide its members with a report on the number and nature of telephone inquiries, requests for advice and complaints received, similar to an earlier report distributed. It was agreed that this document will be attached to the Executive Director's report.

Commissioner Hendricks requested that copies of the revised minutes be distributed to Commission members for their records.

Anita Mayo of Pillsbury Madison & Sutro requested, and was granted, an opportunity to review the Lobbyist Manual draft. All comments on the draft are due to Cheryl Bernstein by February 23, 1996.

VII. Discussion and Possible Action Re: Scheduling of Special Meetings: Work Plan

Commissioner Gordon-Creed proposed that Commission priorities with respect to the Commission's 14 mandates listed in the Charter be discussed at three regularly scheduled meetings and one special meeting. Meeting topics and dates identified at today's meeting are as follows:

Meeting 1: Administrative Duties (March 11, 1996 - regular meeting)

Manage Commission office; annually adjust limitation and disclosure thresholds; maintain filing of documents related to Chapters 4 and 7 of the Political Reform Act; maintain lobbyist registration and filing documents; audit filed documents.

Meeting 2. Investigation Procedures (March 18 - special meeting)

Investigate complaints and violations; maintain whistleblower hotline (includes discussion of Rules and Regulations for Investigation and intake form for complaints).

Meeting 3. Education (April 8, 1996 - regular meeting)

Implement educational programs; publish materials; provide assistance to departments; advocate understanding of ethical mandates

Meeting 4. Recommendations (May 13, 1996 - regular meeting)

Make recommendations to Mayor and Board of Supervisors re: changes in the Charter re: campaign finance and other ethical and conflicts of interest issues. Recommend changes in the Charter (e.g., authority of the City Attorney and District Attorney). There was also a suggestion that the annual report be reviewed.

For the special March 18 meeting addressing investigation procedures, Commissioner Gordon-Creed requested that by March 13, staff submit to him for his review the agenda items for the meeting and a flow chart corresponding to the Regulations for Investigation and Enforcement. Ms. Rubin will send out a special meeting notice, along with the agenda, prior to the meeting.

VIII. Discussion and Possible Action Re: Campaign Finance Reform Ordinance (Proposition N) Implementation

Julie Moll, Deputy City Attorney, reported on Proposition N, which was approved by voters in the November 1995 election.

Until recently, the Municipal Election Campaign Contribution Control Ordinance limited the amount of contributions a local candidate could accept from each contributor. A local candidate could accept up to $500 from each contributor for a general election, and up to an additional $250 from each contributor for a run-off election. This ordinance did not impose any voluntary or mandatory limits on campaign expenditures.

The Board of Supervisors amended the Municipal Election Campaign Contribution Control Ordinance in March 1995. The amended legislation, the Campaign Finance Reform Ordinance (CFRO), establishes voluntary limitations on the amount candidates for local office may spend on election campaigns. Under the CFRO, candidates who agree to voluntary spending limitations may continue to accept contributions of up to $500 from each contributor for the general election, and up to an additional $250 from each contributor for a run-off election. Candidates who do not agree to these spending limitations may accept contributions of up to $150 from each contributor for the general election, and up to an additional $100 from each contributor for a run-off election.

Under the CFRO, candidates who agree to the spending limitations and who plan to accept contributions at the higher level must formally declare this fact before they accept any contributions over $150 for a general election. Candidates must make this declaration no later than the deadline for filing nomination papers.

The Board of Supervisors adopted the CFRO in March 1995. At that time, candidates were already raising and spending money in preparation for the November 7, 1995 election. The Board intended that the CFRO apply to these candidates, and included in the text of the CFRO a set of transition provisions which address the possibility that candidates may have raised and spent campaign funds prior to the enactment of the CFRO.

Following the Board's adoption of the CFRO, a referendum petition on the CFRO was circulated. As a result, the CFRO did not go into effect but was instead placed on the November 7, 1995 ballot. The voters adopted the CFRO at that election, and it took effect on December 21, 1995.

Although the effective date of the CFRO is clear, it is not obvious from the language of the CFRO how it applies to former, current and future candidates for local office. It is also unclear how it should be implemented, given that candidates are already raising and spending money in preparation for the November 6, 1996 election. The City Attorney's Office is studying these and other issues, and will provide the Commission with advice.

Commissioner Lee requested that implementation of Prop N be placed on a future Commission agenda when Ms. Moll has further information.

IX. Public Comment Re: Matters Appearing or Not Appearing on the Agenda. There were no comments from the public.

Commissioner Hendricks suggested, and Commission members agreed, that an agenda item entitled "Items for the Next Agenda" should be inserted on all future agendas immediately preceding the "Public Comment" agenda item.

X. Adjournment. 96-2-12-11 (Gee/Gordon-Creed) Moved, seconded and passed: To adjourn the meeting.

The meeting was adjourned at 4:55 p.m.

Respectfully submitted,

_____
Ginny Vida
Investigator/Auditor

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Ethics Commission

City Hall Room 251-B
San Francisco 94102
554-6464

2/21/96
Special

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF SPECIAL MEETING
WEDNESDAY, FEB. 21, 1996, 3:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM
SAN FRANCISCO

DOCUMENTS
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I. **Call To Order and Roll Call**

II. **Public Comment Re: Matters Appearing or Not Appearing on the Agenda**

III. **Closed Session Pursuant to Ralph Brown Act, Section 54957 and Sunshine Ordinance Section 67.11, Personnel (Performance Evaluation)**

IV. **Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14**

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: Personnel (Performance Evaluation)

V. **Public Comment Re: Matters Appearing or Not Appearing on the Agenda**

VI. **Adjournment**

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MINUTES OF THE SAN FRANCISCO ETHICS COMMISSION MEETING

1390 Market Street, Mezzanine Conference Room 227

March 11, 1996

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I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:08 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Commissioner; Joseph Julian, Commissioner

MEMBERS ABSENT: Brant Lee, Commissioner, was absent.

STAFF PRESENT: Jane E. Rubin, Executive Director; Ginny Vida, Investigator/Auditor; Cheryl Bernstein, Whistleblower/Educator

OTHERS PRESENT: Deputy City Attorney Julie Moll, Office of the City Attorney; Anita Mayo, Pillsbury Madison & Sutro; Robert Pender, Tenants Network; James Chaffee, Sunshine Ordinance Task Force

II. Public Comment re: Matters Appearing or Not Appearing on the Agenda

Robert Pender, Tenants Network, suggested that the Ethics Commission create a handbook for candidates detailing what candidates can and cannot do under the law.

III. Introduction of Commissioner Joseph Julian and Commissioner Paul Melbostad

The meeting was called to order again at 3:28 p.m.

Commissioner Gee introduced Commissioner Julian. Commissioner Julian gave brief introductory remarks.

Executive Director Rubin stated that Paul Melbostad will be sworn in as a Commissioner by District Attorney Terence Hallinan on March 18, 1996, at 10:00 a.m. Commissioner Melbostad will attend the Commission meeting that afternoon. Executive Director Rubin gave a brief overview of Commissioner Melbostad's background.

IV. Closed Session Pursuant to Ralph Brown Act, Section 54957 and Sunshine Ordinance Section 67.11, Personnel (Performance Evaluation)

The closed session began at 3:14 p.m.

V. Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14

96-3-11-12 (Gordon-Creed/Julian) Moved, seconded and passed that the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: Personnel (Performance Evaluation).

The closed session ended at 3:25 p.m.

VI. Discussion and Possible Action Re: Minutes: Meetings of February 5 and February 12, 1996

96-3-11-13 (Gordon-Creed/Julian) Moved, seconded and passed that the minutes from both the February 5 and February 12, 1996, Commission meetings be approved.

Executive Director Rubin noted that an update regarding the missing minutes of the June 12, 1995, Commission meeting will be in the Executive Director's report.

VII. Discussion and Possible Action Re: Election of Vice Chairperson

Commissioner Gee asked Commissioner Gordon-Creed to be acting vice-chair until the election of a vice-chair next month. Commissioner Gordon-Creed accepted.

VIII. Chair's Report
Participation of Commission in Orientation for Commissioners and Board Members

Commissioner Gee asked Commissioner Gordon-Creed to summarize his experience at the city training of new commissioners on February 24, 1996. Commissioner Gordon-Creed reported that he introduced the Ethics Commission to the audience, gave a brief overview of the Ethics Commission mandates, and highlighted those mandates that may be of immediate concern to new Commissioners.

Ms. Moll noted that television Channel 54 taped the training and has televised it twice. Commissioner Gee requested that Commission staff contact Channel 54 to obtain a copy of the tape. Commissioner Gee also requested that Commission staff provide her with the packet of written materials provided to the new commissioners by the City Attorney's office.

IX. Director's Report
A. Updates
B. Projects and Activities

Executive Director Rubin reported that all required Commission budget documents have been filed timely. She noted that the Commission has been assigned a new budget analyst, Ms. Sumi Sousa.

Executive Director Rubin reported that Commission staff has been very busy with recent filing deadlines, increased phone call volume, and daily walk-in requests. She directed the Commissioners' attention to the two reports detailing Commission inquiry and complaint activity from 1/1/96 - 3/11/96. She noted that Commission activity has tripled since last fall.

Executive Director Rubin stated that the Commission office will be open and staffed the Saturday before election day, March 23, 1996, 10 a.m.- 4 p.m., as required by law.

Executive Director Rubin reported that a summary of the June 27, 1995, meeting is available. Commissioner Gordon-Creed requested that the summary be sent to the Commissioners for their review. He also requested that approval of the summary be put on the agenda for the next meeting.

X. Discussion and Possible Action Re: Scheduling Meeting re: Revision of Lobbyist Manual

Executive Director Rubin reported that revision of the lobbyist manual and forms is ongoing. The revised manual raises several policy issues which may be appropriate for review, discussion and decision by the Commission. Resolution of these issues will not require legislative change.

Commissioner Gordon-Creed suggested that the Commission send out the new lobbyist manual immediately following the April 15th deadline in order to avoid confusion amongst filers about which manual to use.

Commissioner Gee suggested that a separate special meeting be held to address the policy issues raised by the revised manual. Ms. Rubin responded that Commission staff will coordinate a date for the special meeting. Commissioner Gordon-Creed requested that staff arrange the meeting for between now and April 15th, 1996.

XI. Discussion and Possible Action Re: Work Plan (Administrative and Scheduled Duties)

Commissioner Gordon-Creed suggested that running the Commission office on a day to day basis did not merit extensive discussion by the Commission because the office appeared to function efficiently under the direction of Executive Director Rubin.

Executive Director Rubin reported that maintenance of the filing deadlines was of immediate and foremost importance to the Commission staff. The filing deadlines are set by state law and therefore the Commission has little control over when peak periods of activity with regard to these filings occur. During the filing periods, the Commission is obliged to, among other things: copy the filings; make them available to the public; conduct electronic filing of the campaign finance statements; make the information accessible on the Internet; and respond to media inquiries. Similar obligations are required of Commission staff during the lobbyist and the statements of economic interests filings.

Executive Director Rubin stated that these calendar-driven tasks exist as a backdrop to other tasks the Commission may want to undertake, such as developing a handbook for candidates or other educational programs.

Regarding office space for record retention, Executive Director Rubin reported that the Commission has only enough space for the immediate future. Commissioner Gee suggested that the Commission begin exploring alternative methods of record maintenance, such as scanning documents. Executive Director Rubin stated that an additional staff member is needed to do clerical work full-time to assist with the heavy volume of paper being received by the office. Deputy City Attorney Moll suggested that the Commission consider requiring the candidates and committees to file in duplicate in order to reduce the amount of staff time spent copying filings.

Commissioner Gordon-Creed reported that the Commission needed to devise a plan to deal with the mandated task of annually adjusting any limitation and disclosure thresholds imposed by city law to reflect any increases or decreases in the Consumer Price Index. Ms. Moll suggested that Commission staff should consult with John Madden in the Office of the Controller about the best time of year to annually address this task.

Commissioner Gordon-Creed reported that the Commission needs to develop a process for an in-depth auditing of documents. Executive Director Rubin noted that this task must be approached incrementally. She reported that staff currently performs a facial audit on documents when they are filed.

Commissioner Gordon-Creed suggested that since the Commission does not have sufficient staff to audit every document filed, staff could perform the audits on a random basis. Commissioner Gordon-Creed asked Deputy City Attorney Moll if the Commission had the authority to conduct audits in this manner.

Ms. Moll stated that the Commission does have the discretion to perform random audits. She suggested that staff research how other agencies conduct their systems, (i.e. random audit; audit conducted because a complaint was received; audit as a snapshot of

campaigns for a particular office). She noted that evenhandedness was the key factor in the discretionary audit process.

Executive Director Rubin noted that conduct of effective audits will be tied to networking of Commission computers and establishing databases that are properly maintained. The establishment of these systems requires installation of equipment and hardware, which will probably not be complete until spring.

Executive Director Rubin noted that the city budget process may yield the Commission a full-time auditor. She stated that she would create a calendar showing all Commission deadlines so that the Commission could determine where there is adequate time to pursue some of its other goals.

XII. Agenda items for next meeting

Commissioner Gordon-Creed requested that approval of the summary of the June 27, 1995, meeting be put on the agenda for the next meeting.

XIII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

Mr. Chaffee requested a copy of the minutes from the Commission's December retreat meeting in conjunction with the Center for the Common Good. Mr. Chaffee inquired if the Commission was planning additional retreats. Commissioner Gee stated that the Commission had no current plans for future retreats since the Walter and Elise Haas Fund ran out.

XIV. Adjournment
The meeting was adjourned at 4:40 p.m.

96-3-11-14 (Julian/ Gordon-Creed) Moved, seconded and passed to adjourn the Commission meeting.

Respectfully submitted,

_____
Cheryl Bernstein
Whistleblower/Educator

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Approved 4/8/96

3/18/96
Special

Minutes of the
San Francisco Ethics Commission Special Meeting
1390 Market Street, Mezzanine Conference Room 227
March 18, 1996

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I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called to order a special meeting at 3:18 p.m. to review the **Regulations of the San Francisco Ethics Commission for Investigations and Enforcement Proceedings** (hereafter referred to as the **Regulations**), adopted June 12, 1995. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Acting Vice-Chair; Brant Lee, Commissioner; Paul Melbostad, Commissioner

MEMBERS ABSENT: Joseph Julian, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Ginny Vida, Investigator/Auditor; Cheryl Bernstein, Whistleblower/Educator

STAFF ABSENT: Shawn Allison

OTHERS PRESENT: James Chaffee, Chair, Sunshine Ordinance Task Force; June Cravett, Special Prosecutor, Special Prosecutions Unit, Office of the District Attorney; Anita Mayo, Attorney, Pillsbury Madison & Sutro; Esther Marks, Commissioner, Planning Commission; Julie Moll, Deputy City Attorney, Office of the City Attorney; Donald Sanchez, Assistant Chief of Operations, Special Prosecutions Unit, Office of the District Attorney

II. Public Comment re: Matters Appearing or Not Appearing on the Agenda

Commissioner Paul Melbostad, appointed earlier this month by District Attorney Terence Hallinan to serve on the Ethics Commission, introduced himself as an attorney in private practice who had previously served on the Board of Permit Appeals. Commissioner Melbostad expressed his desire to assist the Commission in improving its investigation and enforcement procedures. He then introduced Donald Sanchez and June Cravett of the District Attorney's special prosecutions unit. Assistant District Attorney Sanchez described the process followed by the District Attorney's Office in handling cases, and levels of evidence sufficient for a prosecution. He said the District Attorney's Office will work closely with the Ethics Commission and the City Attorney's Office on developing procedures to be followed for ethics-related complaints.

III. Discussion and Possible Action Re: Regulations of the San Francisco Ethics Commission for Investigations and Enforcement Proceedings

Deputy City Attorney Julie Moll reviewed the Ethics Commission's existing process for investigation and enforcement as outlined in the Regulations document adopted June 12, 1995. She explained that she had not prepared a critique of the regulations for today's meeting but would be pleased to develop proposals for amending the regulations for presentation at a future meeting. Ms. Moll noted that the Ethics Commission has the authority to adopt rules and regulations for investigation and enforcement, but these must be submitted to the Board of Supervisors for review and approval. If the Board does not act within 60 days, the regulations automatically take effect.

Summary of Existing Investigation Process. Ms. Moll presented an overview of the process outlined in the Regulations, which were distributed at the meeting. (See flow chart summary of Regulations, attached.)

Questions Raised Re: Investigation Process. During the above presentation by Ms. Moll, several questions and issues were raised. These are summarized as follows:

1. What if the Commission wants to refer a complaint, such as a sexual harassment complaint, to some other agency? Ms. Moll explained that the Commission may refer a complaint to another agency as appropriate, either at the same time as referral to the City Attorney and District Attorney, or after both of these officials have declined to pursue it.. Ms. Moll recommended that since the law authorizes the Commission to investigate a very broad range of complaints, it should exercise its discretion to refer to outside agencies.

2. In Section 3.699-11 (4) of the Charter, does the word Commission refer to Commission members or staff? Could the Commission members screen complaints prior to their being forwarded to the City Attorney and District Attorney? Ms. Moll stated that the intended reference was probably to the commission staff. The reference is clear in some cases, not clear in others. The Charter does not distinguish between the department and the board of commissioners. Anita Mayo noted that the Charter was written with the intention of giving maximum discretion to staff.

3. Should the low threshold for referral of complaints be raised? Commissioner Gordon-Creed suggested that the wording should read "...if there is sufficient reason to believe" that a violation of law has occurred. Ms. Moll noted that the Ethics Commission has the authority to recommend this change to the Board of Supervisors.

4. Should the regulations provide for regular staff reports to the Commission re: how many complaints the staff decided to refer or not refer, so that the Commission could exercise its right to intervene?

5. If the District Attorney assigns an attorney to investigate a complaint and then decides not to pursue it further, must it send the complaint back to the Ethics Commission? Ms. Moll noted

that the procedure is flexible. The District Attorney can return it to the Commission with a request that the Commission refer the complaint back again if it finds more serious evidence.

6. The Charter provides that the City Attorney and District Attorney have 10 days in which to notify the Commission of their decisions to pursue or not pursue a complaint. This provision should also be reflected in the regulations.

7. Existing regulations do not provide that the staff may conduct a preliminary investigation before submitting an investigation report in preparation for a Commission review of a staff recommendation to authorize an investigation. Should the staff be authorized to conduct a preliminary investigation that could at least allow it to interview a complainant who has submitted a written, signed complaint?

8. A question was raised by Commission Chair Gee re: a reference on page 14 - 5(c) of the Regulations to a requirement for a court reporter to record probable cause proceedings. Executive Director Rubin explained that if the entire Commission is present, the regulations would not require the presence of a court reporter.

9. What if the respondent does not appear for the probable cause hearing? Does the Commission have the authority to proceed with the hearing? Ms. Moll said that she believes the Commission could proceed.

10. The regulations are not clear as to exactly when staff begins its investigation after the Commission authorizes one. The procedure is that staff conducts an investigation and then prepares an investigation report prior to the hearing on the merits. There is only a mention of subpoena power in the Regulations after a finding of probable cause, which suggests that the investigation is proceeding.

11. Why is the Commission empowered to conduct both a hearing for a determination of probable cause and also a final hearing to determine whether the law has been violated? Why doesn't the law provide for a second hearing by an independent authority such as an administrative law judge? Ms. Moll and Commissioner Gordon-Creed concurred that other agencies of the City and County are similarly empowered to function in a dual capacity.

12. Can Commission members communicate with staff about a pending complaint? Ms. Moll said that the Regulations prohibit only *ex parte* communication with the respondent, so there is not a problem with a Commissioner discussing such a matter with staff.

13. Commissioner Lee noted that the staff, in its investigative role, is similar to prosecutors, and the Commission members are analogous to judges. At some stage perhaps the regulations should prohibit Commission members from discussing complaints with staff. It might also be the case that a Commission member might advise staff not to pursue a particular complaint, with the result that the other Commission members might not be informed about it. Ms. Moll suggested that the Commission review closely the *ex parte* language in the Regulations. She noted that

staff are referred to as a "party" and suggested that the language should be changed so that it is not misleading.

14. It was noted that at a final hearing, the respondent is represented by counsel and the Ethics Commission would still be entitled to be represented by the City Attorney's Office.

15. In cross examination of witnesses, it might be advisable for the Commissioners to ask the questions.

16. Does the complainant have a right to be present during the hearing or to have any role? Ms. Moll advised that the complainant could serve as a witness if he/she has personal knowledge.

17. What are the rights of an "anonymous" complainant? What if an "anonymous" complainant wants to continue to be consulted after filing his/her complaint?

18. Can the Commission proceed with an investigation if staff knows who the complainant is but he/she wants to remain anonymous? Is it appropriate for the Commission to provide a shield for persons who want to pursue a complaint while they remain anonymous? What about the respondent's right to know his/her accuser? (Ms. Moll offered to research this question.) What about the potential for abuse -- setting the wheels of accusation and investigation in motion?

19. What can staff tell anonymous complainants who request an update on the status of their complaint? Can staff inform such persons when they file that they waive their right to an update? Could the complainant then offer to disclose his/her name to get the update? The Commission needs a policy re: anonymous complaints. Also, what is the Commission's appropriate response if a complainant goes to the press with information that the Commission is obliged to hold confidential?

It was noted that the Whistleblower ordinance allowing for anonymous complaints was written for grievances from city employees who were afraid of losing their jobs.

20. The Regulations provide that the Commission has 14 days in which to notify the complainant of the Commission's action on a complaint filed. This is a very unrealistic deadline. But the Charter would also have to be amended.

IV. Agenda Items for the Next Meeting

Commissioner Lee suggested, and the Commission agreed, that a special meeting be scheduled to consider proposals for amending the Regulations. Julie Moll offered to coordinate this project. Ms. Rubin advised that staff would like to frame policy issues for discussion. In the meantime, Commission members will forward their recommendations to Ms. Moll and to Commissioner Melbostad, who will work with Ms. Moll and staff on assembling and framing the recommendations. Ms. Moll will also contribute recommendations of her own on improving the Regulations, especially in terms of simplifying and clarifying the procedures.

V. Public Comment Re: Matters Appearing or Not Appearing on the Agenda.

Mr. Chaffee inquired about what happens to the Commission's investigation files once they are closed. He was advised that the files remain closed. Mr. Chaffee said that he disagreed with the policy in the Regulations providing that members of the public should be discouraged from presenting oral complaints at Commission meetings. He stated that people have the right to bring petitions to their government.

VI. Adjournment

There being no further business, the meeting was adjourned at 5:05 p.m.

Respectfully submitted,

_____
Ginny Vida
Investigator/Auditor

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4/8/96

Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY APRIL 8, 1996, 3:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM
SAN FRANCISCO

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I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III. Discussion and Possible Action Re: Minutes: Meetings of March 11 and March 18, 1996

IV. Discussion and Possible Action Re: Election of Vice Chairperson

V. Chair's Report

VI. Director's Report
A. Updates: Non-referred complaints
B. Projects and Activities

VII. Discussion and Possible Action Re: Scheduling Meeting re: Revision of Lobbyist Manual.

VIII. Discussion and Possible Action Re: Work Plan (Outreach and Education)

IX. Agenda items for next meeting

X. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XI. Closed Session Pursuant to Ralph Brown Act, Section 54956.9 and Sunshine Ordinance Section 67.11, pending litigation.

XII. Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

XIII. Adjournment

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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MINUTES OF THE SAN FRANCISCO ETHICS COMMISSION MEETING

1390 Market Street, Mezzanine Conference Room 227

April 8, 1996

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:07 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Acting Vice-Chair; Joseph Julian, Commissioner; Brant T. Lee, Commissioner; Paul Melbostad, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Ginny Vida, Investigator/Auditor; Cheryl Bernstein, Whistleblower/Educator

OTHERS PRESENT: Deputy City Attorney Julie Moll, Office of the City Attorney; Anita Mayo, Pillsbury, Madison & Sutro; James Chaffee, Sunshine Ordinance Task Force

Commissioner Gee stated that agenda items XI and XII had been deleted from today's meeting.

II. Public Comment re: Matters Appearing or Not Appearing on the Agenda
There were no comments from the public.

III. Discussion and Possible Action Re: Minutes: Meetings of March 11 and March 18, 1996
Commissioner Gee requested that discussion and possible action regarding the summary minutes of the June 1995 meeting be placed on the agenda for the next meeting.

Commissioner Gee requested that the minutes from the March 11, 1996, meeting be amended as follows: add to the end of the last sentence in item XIII "since the Walter and Elise Haas Fund ran out."

96-4-8-15 (Melbostad/Gordon-Creed) Moved, seconded and passed that the minutes from the March 11, 1996, meeting be approved as amended.

96-4-8-16 (Gordon-Creed/Lee) Moved, seconded and passed that the minutes from the March 18, 1996, meeting be approved.

IV. Discussion and Possible Action Re: Election of Vice Chairperson
96-4-8-17 (Lee/Melbostad) Moved, seconded and passed that Commissioner Gordon-Creed shall be Vice-Chair for the term ending June 30, 1996.

V. Chair's Report

Commissioner Gee stated that the nomination for the offices of Chair and Vice-Chair will occur at the June 10, 1996, meeting.

VI. Director's Report

A. Updates: Non-referred complaints

B. Projects and Activities

Executive Director Rubin reported that the Ethics Commission has received a complaint that she has determined does not provide reason to believe a violation of law may have occurred. The complainant has been informed that the complaint will not be processed further. Each Commissioner has a copy of the complaint and response, and can request Commission review by informing Commission staff. If the Commission staff receives two or more requests from Commissioners for the complaint to be reviewed, it will be placed on the agenda in a closed session at the next meeting.

Executive Director Rubin reported that the Office of the Mayor has informed the Commission that it will not be among the city departments returning to City Hall when it re-opens. The Commission will remain in its temporary location until a new civic building is constructed in the future. Commissioner Melbostad requested that Commission staff determine whether the Commission could use hearing room space in City Hall for Commission meetings when it re-opens.

Executive Director Rubin reported that the base budget request for Fiscal Year 1996/1997 has been reviewed by the Mayor's Budget Office budget analyst and has been accepted as submitted. The document outlining Requested Changes will be submitted through channels to the Mayor for consideration.

Commission staff has been conducting the filing of Statements of Economic Interests for all city and county elected and appointed officials, members of boards and commissions, and department heads.

Commission staff has begun developing educational materials about the Campaign Finance Reform Ordinance. The Commission has undertaken the initial steps required to adjust the spending limits for candidates for both the Board of Education and the Board of Supervisors.

VII. Discussion and Possible Action Re: Scheduling Meeting re: Revision of Lobbyist Manual

Commissioner Lee directed the Commissioners' attention to a memo detailing policy issues regarding revision of the lobbyist manual and forms. After discussion, the Commission decided that a special meeting would be the most appropriate forum to discuss the policy issues. The special meeting is scheduled for May 6, 1996, at 3:00 p.m.

VIII. Discussion and Possible Action Re: Work Plan (Outreach and Education)
Commissioner Gordon-Creed inquired about the budget and resources available to the Commission for outreach and education. Executive Director Rubin stated that the Commission has no current resources for a contracted- out type of publication, but that the Commission could produce educational documents similar to the lobbyist manual and forms.

Commissioner Gee requested that an orientation packet for new Ethics Commissioners be a part of the outreach and education program. Commissioner Gordon-Creed offered to work with Deputy City Attorney Julie Moll on development of a packet of materials for both new Ethics Commissioners and new Commissioners throughout the City and County of San Francisco. Commissioner Gee requested that the list of appropriate materials be prepared for the next Commission meeting.

Executive Director Rubin stated that the Charter is very specific in mandating the type of educational programs and manuals the Commission should be producing. She suggested that due to limited resources, the Commission may need to prioritize which programs and manuals the Commission should undertake to provide first. Commissioner Gee requested that Commission staff create a proposal for the next meeting regarding the educational priorities of the Commission.

IX. Agenda items for next meeting
Executive Director Rubin suggested that the proposed by-law amendment to Article IV, Section 2 "Term of Office" be placed as an agenda item for the next meeting.

Commissioner Melbostad requested that the following four items be placed as agenda items for the next meeting:
(1) Discussion of implementation of the law prohibiting certain contractors who are negotiating to do business with the City from making contributions to candidates and officeholders who could be in a position to approve the pending contract.

(2) An informational presentation by Supervisor Ammiano or his staff regarding the Supervisor's proposal to require political consultants to register with and be regulated by the Ethics Commission. Commissioner Melbostad stated that Mayor Brown has endorsed this proposal. Anita Mayo of Pillsbury, Madison & Sutro stated that the Clerk of the Board of Supervisors has a draft of Supervisor Ammiano's proposal.

(3) Discussion of the issue that accrued expenditures become campaign contributions at a certain point in time and have to be reported as such. Commissioner Melbostad stated that the federal government has adopted this idea and that the state government is currently considering it.

(4) Discussion of the issue that discounts or free inclusion on slate cards should be regarded as contributions to a candidate. Commissioner Melbostad suggested that this policy should apply only to paid slate mailers produced by professional consultants.

Commissioner Melbostad stated that this policy is not intended for slate mailers in which the endorsements are voted on by political clubs and the candidate is then solicited for a payment in return for being placed on the mailer.

X. Public Comment Re: Matters Appearing or Not Appearing on the Agenda
There were no comments from the public.

XIII. Adjournment
The meeting was adjourned at 4:20 p.m.

96-4-8-18 (Lee/Julian) Moved, seconded and passed to adjourn the Commission meeting.

Respectfully submitted,

_____
Cheryl Bernstein
Whistleblower/Educator

min4896

ETHICS COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

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Special

VIRGINIA C. GEE
CHAIRPERSON

GEOFFREY
GORDON-CREED
COMMISSIONER

JOSEPH JULIAN
COMMISSIONER

BRANT T. LEE
COMMISSIONER

PAUL H. MELBOSTAD
COMMISSIONER

JANE E. RUBIN
EXEC. DIRECTOR

SAN FRANCISCO ETHICS COMMISSION
AGENDA

AND NOTICE OF *SPECIAL MEETING*
MONDAY MAY 6, 1996, 3:00 P.M.
1390 MARKET STREET
MEZZANINE CONFERENCE ROOM
SAN FRANCISCO

I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III. Discussion and Possible Action Re: Lobbyist Manual and Reporting Requirements

Review of Proposed Revisions to Lobbyist Manual
Issues Related to Reporting Requirements
Other Related Issues

IV. Agenda items for next meeting

V. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

VI. Adjournment

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MINUTES OF THE SAN FRANCISCO ETHICS COMMISSION SPECIAL MEETING

1390 Market Street, Mezzanine Conference Room 227

May 6, 1996

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:10 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed; Vice Chair; Joseph Julian, Commissioner; Brant T. Lee, Commissioner; Paul H. Melbostad, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Cheryl Bernstein, Whistleblower/Educator; Ginny Vida, Investigator/Auditor; Julie Moll, Deputy City Attorney

OTHERS PRESENT: Larry Bush; Anita D. Sterns Mayo, Pillsbury, Madison & Sutro; Elizabeth Metling; Wendy Loren; Jim Sutton, Junior Partner, Nielsen Merksamer Parrinello Muller & Naylor; Patricia Vaughey, CHWIA

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

Two members of the public asked the Commission to address complaints they raised at the meeting. Following Commission procedure they were asked to refer the complaints to Commission staff after today's meeting. A third member of the public who requested that the Commission address another matter of concern was also referred to the Commission staff.

III. Discussion and Possible Action Re: Lobbyist Manual and Reporting Requirements

Commissioner Brant T. Lee noted that today's special meeting was scheduled for discussion and approval of a revised draft of the Lobbyist Manual. This document was distributed at an earlier Commission meeting for review prior to today's meeting. Commissioner Lee advised that his memo dated April 8, 1996 highlights specific issues that the Commission may wish to address. (See memo enclosed.) Commission Chair Virginia C. Gee noted that this is a second draft in the revision process.

Commissioner Lee referred to a letter to Executive Director Jane Rubin from Anita Mayo of Pillsbury Madison & Sutro, dated May 1, 1996, in which Ms. Mayo commented on the draft revision. (See enclosed.)

Larry Bush distributed an article he had written for *The Examiner* that he said had caused the lobbyist law to be changed. Mr. Bush also distributed his comments on the draft revision of the Lobbyist Manual. (See enclosed.)

Item 1: Reporting Requirements of Contract Lobbyists

Commissioner Lee focused discussion on the first issue raised in his April 8 memo: whether contract lobbyists should be required to report not only on payments received for direct communications with City officers, but also on payments made for other services designed to influence local legislative or administrative action.

Ms. Mayo said the ordinance itself does not require additional disclosure, and that such a requirement might go beyond the ordinance, enlarging the scope of the law. Ms. Mayo said she thought it would be necessary to change the law in order to require filers to report additional information.

Commissioner Geoffrey Gordon-Creed said that under existing law, it appears that the Ethics Commission could require contract lobbyists to report the names of persons they had met with, in view of the Lobbyist Ordinance's provision that the Commission may require "...any other information required...consistent with the purposes and provisions of this article. (Sections 16.525 (7), 16.526 (g), and 16.531 (e))

Mr. Bush, who stated that he was involved in the creation of the law, said that the framers of the law did not intend that there should be a loophole for contract lobbyists, and that without broader disclosure requirements it would be possible for a contract lobbyist to spend as much as $500,000 without being required to report this level of expenditure.

Both Mr. Bush and Commissioner Paul H. Melbostad said that portions of the newsletter of the Committee on Jobs are being used for lobbying purposes. The newsletter is being mailed to commissioners and other officials concerning matters on which the Committee has taken a position, and this lobbying activity is not being reported.

Ms. Mayo disagreed, saying that the newsletter did not engage in lobbying activity. She said that the Committee on Jobs, as a business and organizational lobbyist, is required to report payments for or in connection with "...(A) support or assistance of lobbyists; (B) direct communications with a City and County officer for the primary purposes of influencing local legislative or administrative action, and (C) soliciting or urging persons other than the filer or the filer's employees to enter into communications with a City and County officer for the primary purpose of influencing local legislative or administrative action." (Section 16.526 (d) (2))

Jim Sutton of Nielsen Merksamer, who identified himself as representing the American Association of Political Consultants, stated that the Ethics Commission should require contract lobbyists to report only direct communications. He noted that clients pay contract lobbyists to make direct communications on their behalf. That is the only payment (for direct communications) contract lobbyists must report. Under state law a contract lobbyist discloses only what the ordinance requires be disclosed. Mr. Sutton urged the Ethics Commission to track the state law.

Commissioner Geoffrey Gordon-Creed said that the proposed change would bring reporting requirements for contract lobbyists in line with those for grass roots lobbyists.

Commission Chair Gee raised the question of whether the Ethics Commission has the authority to make the standards for City law higher than those for state law. Deputy City Attorney Julie Moll confirmed that the Ethics Commission does have the authority to make its standards higher than the state standards, and that requiring additional information from contract lobbyists is consistent with the purposes of the ordinance.

Commissioner Lee called for a motion on Item #1. The following motion was approved unanimously:

96-5-6-19 (Melbostad/Gordon-Creed) Moved, Seconded and Passed: That the Commission take necessary steps to revise the Lobbyist Manual and forms to require contract lobbyists to report payments received for other services designed to influence legislative or administrative action.

Item 2. Political Contributions to Ballot Measure Committees

Ms. Mayo commented that as in Item 1, the Commission again proposes to expand reporting requirements beyond the provisions of the law.

Mr. Bush recommended that: 1) lobbyists should report contributions to all committees, both ballot and non-ballot committees; 2) committees resulting from ballot measures put on the ballot by the Mayor or the Board of Supervisors should be deemed "controlled" whether or not the committee is registered with the Registrar of Voters or the Ethics Commission as "controlled"; and 3) lobbyists should report contributions to any committee controlled by an officeholder. Mr. Bush noted that since state party offices are elected by convention and not by ballot, failure to report these types of contributions means that there will be no reporting unless the officeholders themselves report them on their Statements of Economic Interests.

Ms. Mayo noted that the framers of the ordinance could have added ballot measure committees to the ordinance but did not do so because it was not their intent.

Mr. Sutton said that the information that lobbyists would have to disclose per Item 2 re: contributions to ballot measure committees is already reported on the committees' campaign disclosure reports. One can refer to the campaign disclosure reports for this information. He said the Ethics Commission should not require duplicate reporting.

In response to Mr. Sutton's comment, Ms. Moll stated that there is no legal bar against requiring that all the information relating to the influence of lobbyists on public officials be reported in one place. Executive Director Jane Rubin concurred.

Commissioner Lee noted that Statements of Economic Interests are filed only once a year, in April, whereas committees and lobbyists are required to report quarterly. In view of these differences, the proposal outlined in Item 2 does not require double reporting.

Ms. Moll advised that the Ethics Commission is within its authority to require this type of reporting.

Commission Chair Gee noted that there would be no additional form to fill out, just additional entries on the form. Thus the additional information requested is not great.

The following motion was approved unanimously:

96-5-6-20 (Lee/Gordon Creed) Moved, Seconded and Passed: That the Ethics Commission take necessary steps to revise the Lobbyist Manual and forms to require the reporting of contributions to ballot measure committees, regardless of whether they are controlled by a city official or a candidate.

Item 3. Gift Tickets to Political Fund-raisers and 501(c)(3) Organizations

Ms. Mayo expressed opposition to the proposed requirement for disclosure of gift tickets to political fund-raisers because the law does not recognize that such gift tickets have monetary value. She stated that such requirement would create confusion despite there being no monetary value attached. She expressed concern that the media will look at what has been reported, count it and say someone has violated the limit.

Cheryl Bernstein, Whistleblower/Educator, stated that even though such gift tickets have no dollar value, there are benefits conferred upon an official who receives them.

Ms. Moll confirmed that for the purposes of the Political Reform Act, such gift tickets have no monetary value. (See enclosed April 8, 1996 policy memo, Item III.)

Commissioner Melbostad stated that it is the Ethics Commission's responsibility to determine whether there is an extra benefit to an official who receives gift tickets.

Mr. Bush suggested that the Commission might require reporting of only the gift ticket, but not the value amount. Commissioner Lee noted that corporations buy tables at political events, then find people to fill them.

Commissioner Melbostad also concurred, adding that the monetary benefit could be reported as zero. This would confirm that a non-monetary benefit was bestowed, but would not confuse the issue of financial limits because a dollar amount would not be reported.

Commissioner Melbostad suggested that the Ethics Commission have language drafted and presented to the Commission for its consideration and possible action at a later date. The following motion was approved unanimously:

96-5-6-21: (Lee/Melbostad) Moved, Seconded and Approved: That the Ethics Commission staff be asked to draft wording to require disclosure by lobbyists of gifts of tickets to events. The wording should make it clear in the manual and forms that no dollar amount need be reported.

Item 4. Activity Expenses

It was noted that lobbyists may be incurring activity expenses re: officials' aides, e.g., taking them to lunch or dinner. Under current regulations this activity is not reportable. A question was raised re: whether this activity should be reported.

Opponents of this proposal stated that aides to Supervisors have to disclose this information on their Statements of Economic Interests and that, therefore, the information is reported.

Mr. Bush stated that the information would be more accessible to the public if it were disclosed in one place.

Ms. Mayo stressed again that the law specifies persons who have to report. If the framers of the law had wanted to designate more reporting, they would have provided for it.

Commissioner Gordon-Creed raised the question: If aides are already required to disclose this information elsewhere, would additional disclosure be too burdensome?

In response, Commissioner Melbostad emphasized that it is still valuable for purposes of public access to put the information in one place.

Ms. Moll advised that this proposal, which is intended to capture benefits conferred on "decision makers," requires some careful consideration. Aides may be considered decision makers, but other types of employees may not be in that category.

The point was made that information being disclosed on a Statement of Economic Interests will be available only once a year, on April 1, whereas lobbyist reports are filed quarterly.

It was decided that staff would be asked to draft appropriate language that would present options re: how the Commission would designate employees to be covered. The following motion was approved unanimously:

96-5-6-21 (Gordon-Creed/Gee) That the Commission staff draft a proposal to require reporting of activity expenses and give options for considering which particular individuals would be covered by the filing requirement: e.g., designated employees, aides to Supervisors.

IV. Agenda Items for the Next Meeting

Commission Chair Gee noted that two items had been approved at today's meeting, and two others require further development and consideration.

The Commissioners agreed to instruct staff to revise the manual to reflect the first two approved motions. A special meeting to approve the manual as revised, and to consider staff proposals for additional items was scheduled for May 29, at 3:00 p.m.

V. Public Comments Re: Matters Appearing or Not Appearing on the Agenda

There were no comments from the public

VI. Adjournment

The meeting was adjourned at 5:10 p.m.

Respectfully submitted,

Ginny Vida

Ginny Vida
Investigator/Auditor

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ETHICS COMMISSION
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VIRGINIA C. GEE
CHAIRPERSON

GEOFFREY
GORDON-CREED
COMMISSIONER

JOSEPH JULIAN
COMMISSIONER

BRANT T. LEE
COMMISSIONER

PAUL H. MELBOSTAD
COMMISSIONER

JANE E. RUBIN
EXEC. DIRECTOR

SAN FRANCISCO ETHICS COMMISSION NOTICE OF BYLAWS AMENDMENT

AT THE SCHEDULED REGULAR MEETING, TO BE HELD ON MONDAY, MAY 13, 1996 AT 3:00 P.M. AT 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM, THE ETHICS COMMISSION PROPOSES TO DISCUSS AND TAKE POSSIBLE ACTION ON THE FOLLOWING AMENDMENT TO ITS BYLAWS:

To amend Article IV, Section 2 "Term of Office" to limit the terms of service as Charperson and Vice-Chairperson of the Ethics Commission to no more than two consecutive one year terms.

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY MAY 13 1996, 3:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM
SAN FRANCISCO

I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III. Discussion and Possible Action Re: Minutes: Meeting of April 8, 1996 and Summary of Meeting of June 27, 1995.

IV. Discussion and Possible Action Re: Amendment of Bylaws
To limit service as Chair and Vice-chairpersons to no more than two consecutive one year terms

V. Chairperson's Report
A. Preparation of Semi-annual Performance Evaluation
B. Preparation of Annual Report and Recommendations

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VI. Director's Report
A. Updates: Budget
B. Projects and Activities

VII. Discussion and Possible Action Re: Proposed "Honest Election Ordinance"
Presentation by Michael Housh, Aide to Supervisor Tom Ammiano

VIII. Discussion and Possible Action Re: Implementation of Campaign Finance Reform Ordinance provisions regarding contributions by certain contractors

IX. Discussion and Possible Action Re: The conversion of unpaid accrued campaign expenditures into contributions

X. Discussion and Possible Action Re: Discounts/free inclusions on Slate Cards as contributions

XI. Discussion and Possible Action Re: Work Plan (Reports and Recommendations)

XII. Discussion and Possible Action Re: Charter Section 8.107: Suspension and Removal

XIII. Agenda items for next meeting

XIV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XV. Closed Session Pursuant to Ralph Brown Act, Section 54956.9 and Sunshine Ordinance Section 67.11, pending litigation.

XVI. Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

XVII. Adjournment

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MINUTES OF THE
SAN FRANCISCO ETHICS COMMISSION MEETING
1390 Market Street, Mezzanine Conference Room 227
May 13, 1996

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:07 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Joseph Julian, Commissioner; Brant T. Lee, Commissioner; Paul Melbostad, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Cheryl Bernstein, Whistleblower/Educator; Deputy City Attorney Julie Moll, Office of the City Attorney; Ginny Vida, Investigator/Auditor

OTHERS PRESENT: Larry Bush; James Chaffee, Sunshine Ordinance Task Force; Michael Housh, Aide to Supervisor Tom Ammiano; Anita Mayo, Pillsbury, Madison & Sutro; Rebecca Prozam, Office of the Mayor; Jeff Sheehy, Harvey Milk Lesbian & Gay Democratic Club; Jim Sutton, Nielsen, Merksamer, et al; unidentified members of the public

II. Public Comment re: Matters Appearing or Not Appearing on the Agenda
There were no comments from the public.

III. Discussion and Possible Action Re: Minutes: Meeting of April 8, 1996 and Summary of Meeting of June 27, 1995

96-5-13-22 (Gordon-Creed/Julian) Moved, seconded and passed that the summary of the June 27, 1995, meeting be approved.

96-5-13-23 (Melbostad/Gordon-Creed) Moved, seconded and passed that the minutes of the April 8, 1996, meeting be approved.

IV. Discussion and Possible Action Re: Amendment of Bylaws
To limit service as Chair and Vice-chairpersons to no more than two consecutive one-year terms

Commissioner Gee offered the following rationale for the above bylaw amendment: Limiting the chair and vice chair tenures to no more than two consecutive one-year terms would provide a balance between promoting continuity in the development and progress of the Commission, and the sharing of leadership among Commission members. This

amendment would also serve as a model for other commissions and boards, as indicated in the Ethics Commission mission statement.

96-5-13-24 (Julian/Melbostad) Moved, seconded and passed to amend the Ethics Commission bylaws to limit the chair and vice-chair offices to two consecutive one-year terms.

V. Chairperson's Report

A. Preparation of Semi-annual Performance Evaluation

B. Preparation of Annual Report and Recommendations

Commissioner Gee stated that Executive Director Rubin would provide Commissioners with the semi-annual performance evaluation forms. The Commission will convene a closed session on June 10, 1996, to conduct the evaluation.

Commissioner Gee stated that Executive Director Rubin is preparing a draft of the annual report which is due July 1, 1996, to the Board of Supervisors and the Mayor. At the June 10, 1996, Commission meeting, the Commissioners will have an opportunity to review the draft and offer input.

V. Director's Report

A. Updates: Budget

B. Projects and Activities

Executive Director Rubin reported that the Ethics Commission is able to communicate via e-mail and addresses for both staff and commissioners are available.

Executive Director Rubin reported that the Commission's base budget has been accepted as written. However, additions to the budget for additional staff positions have been denied. It remains a possibility that monies may be made available for a web page, computer system support services, and/or database development.

Executive Director Rubin stated that the first quarter lobbyist filing occurred on April 15, 1996. The report on the lobbying filings has been issued. Both the compliance of the submissions and the public interest in the report have increased since the previous quarter.

Executive Director Rubin also stated that the Commission has adjusted the voluntary spending limits for candidates for the November 1996 election.

VII. Discussion and Possible Action Re: Proposed "Honest Election Ordinance" Presentation by Michael Housh, Aide to Supervisor Tom Ammiano

Commissioner Melbostad stated that three hand-outs were distributed at today's meeting on the Honest Election Ordinance: the current version of the proposed legislation; a

summary sheet on the provisions of the proposed legislation; and a Q. & A. on the proposed legislation.

Michael Housh, aide to Supervisor Tom Ammiano, made a presentation about the proposed Honest Election Ordinance. He stated that the role of campaign consultants is similar to that of lobbyists, but consultants are not subject to the same public disclosure requirements as lobbyists. He stated that the issue centers on a loophole: prospective city contractors can hire a lobbyist to influence city officials and have that lobbyist perform double-duty as the campaign manager for those same city officials. Supervisor Ammiano has proposed the Honest Election Ordinance to close the loophole.

Mr. Housh reported that existing laws were used as much as possible in drafting the Honest Election Ordinance. The ordinance was modeled after the San Francisco Lobbyist Ordinance, the San Diego Municipal Code, an Executive Order by President Clinton, and the San Francisco City Charter.

Mr. Housh summarized the provisions of the ordinance. The ordinance defines "political consultant" as a person or entity meeting three requirements: (1) contracts to support or oppose a candidate or measure for the ballot; (2) receives $10,000 or more in aggregate for campaign management services; and (3) expenditure for services is reported as either professional services or fundraising on campaign finance reports. The ordinance would require consultants to register with the Ethics Commission and file quarterly reports detailing their clients, payments, political contributions and activity expenses. The ordinance also authorizes the Commission to conduct investigations and to forward results to the City Attorney and District Attorney.

Commissioner Gordon-Creed stated that the ordinance's provisions regarding Commission investigations may conflict with current Commission rules and regulations.

Mr. Housh noted that adoption of the ordinance by the Board of Supervisors needs to take place by July 30, 1996. He stated that Supervisor Ammiano hopes to receive an approval as to form as soon as possible from the City Attorney's Office.

Commissioner Gordon-Creed stated that under subsection (f) of the Powers and Duties of the Ethics Commission in the ordinance, the Commission is authorized to provide confidential treatment to any information that is not inconsistent with the public interest and which, if disclosed, would cause a hazard or compromise the commercial or economic interests of the person or firm. He suggested that a problem might occur if a complaint is made regarding that confidential information.

Mr. Housh responded that this would be a narrow change with regard to issues of confidentiality for the Commission. Confidentiality is forfeited by nature of doing an illegal act.

Commissioner Gordon-Creed observed that the Honest Election Ordinance would change the notification procedures regarding receipt of complaints by the Commission. He expressed concern that the Commission not be used as a political weapon. Mr. Housh acknowledged the Commissioner's concern. Commissioner Lee commented that complaints regarding political consultants are not more important than other types of complaints received by the Commission, and therefore should not receive special treatment.

Commissioner Julian inquired as to how the Commission can insure adequate financial support for appropriate staffing levels with regard to the increased workload the Honest Election Ordinance will create. Mr. Housh reported that after July 1, the Board of Supervisors will not need to approach the Mayor regarding budget allocations to facilitate the additional responsibilities the Honest Election Ordinance will create for the Commission. The Board of Supervisors may be able to create a reasonable budget allocation for the purpose of implementing the ordinance. Mr. Housh noted that Supervisor Ammiano had been successful in advocating appropriate staffing levels for the Office of Citizen Complaints.

Executive Director Rubin asked Mr. Housh how the Commission's concerns about the ordinance will be addressed if the current version of the ordinance is awaiting approval as to form by the City Attorney. Commissioner Gordon-Creed asked that the Commission be given an additional opportunity to comment on the ordinance. He suggested that the Commission hold a hearing on the issue.

Deputy City Attorney Moll suggested that the Commission could hold a joint hearing with the Board of Supervisors, and/or the Commission could appoint a Commissioner to serve as a liaison to Supervisor Ammiano's staff regarding the proposal.

Commissioner Lee inquired as to the nature of the opposition to the ordinance. Mr. Housh replied that no official opposition had been received, other than second or third hand.

Anita Mayo, Pillsbury, Madison & Sutro, stated that the information which would be disclosed under the ordinance is already reported in the sub-vendor payments report of the campaign finance filings. Mr. Housh replied that it would take an interested individual an enormous amount of time to research the pages of sub-vendor payments. Housh also stated that the public may not have the specialized knowledge to fully understand the relationships behind the sub-vendor payment reports (e.g. which political consultant owns the printing company that produced a mailer).

Jim Sutton, Nielsen, Merksamer, et al, stated that the American Association of Political Consultants had hired Nielsen, Merksamer to oppose the ordinance. He stated that the ordinance is broader than any other ordinance in the nation, and that the ordinance requires information to be reported that is already reported in the campaign finance filings. He also stated that the ordinance raises significant constitutional issues. He stated that no

compelling governmental interest exists to require this public disclosure, and that the First Amendment protects the right to lobby the government. He stated that the ordinance affects free speech, particularly political speech and the right of association of a candidate with a consultant. Mr. Sutton stated that he will submit a formal, written opposition to the ordinance. Commissioner Gee requested that Mr. Sutton send his formal written opposition to the Commission when he sends it to the City Attorney, Board of Supervisors and Mayor's Office.

Commissioner Lee inquired as to whether the American Association of Political Consultants opposes the concept totally or whether the consultants support the concept and will work to cure any constitutional problems. Mr. Sutton responded that the consultants do not support the concept at all; it is a private relationship and a private contract between the political consultants and the candidates.

Jeff Sheehy, Harvey Milk Lesbian & Gay Democratic Club, stated that consultants turned lobbyists have too much undue influence. He stated that the behavior of consultants creates a complete corruption of the democratic process.

Commissioner Melbostad urged that the Commission's input occur while it is still timely. He suggested that the Commission schedule a special meeting on the ordinance. It was decided to hold the meeting on June 17, 1996, at 3:00 p.m. and to invite public testimony.

Commissioner Julian asked if the Commission could get an opinion from the City Attorney regarding the constitutional issues. Deputy City Attorney Moll responded that she hoped to have the issues resolved in the next draft of the ordinance.

Commissioner Melbostad asked the Commission to notify community groups about the special meeting on the ordinance, and to make a concerted effort to accommodate their schedules. Executive Director Rubin responded that the Commission has a mailing list of interested community groups and a fax list of diverse community groups.

Commissioner Gee requested that the Commission staff locate an appropriate-sized room for the special meeting. Commissioner Lee asked the public to forward any written comments on the ordinance to the Commission, and Deputy City Attorney Moll stated that she would prepare a summary of the ordinance for the Commission.

VIII. Discussion and Possible Action Re: Implementation of Campaign Finance Reform Ordinance provisions regarding contributions by certain contractors

IX. Discussion and Possible Action Re: The conversion of unpaid accrued campaign expenditures into contributions

X. Discussion and Possible Action Re: Discounts/free inclusions on Slate Cards as contributions

Commissioner Gee requested that the Commission recalendar agenda items VIII, IX and X for a future meeting. Commissioner Melbostad agreed and suggested that the Commission read the materials in order to prepare for the next meeting. He suggested Commissioners read San Francisco Administrative Code Section 16.503(k) for the definition of "qualified campaign expenditure" and Section 16.503(d) for the definition of "contribution."

Larry Bush asked the Commission to notify the November election candidates about the new provisions regarding contributions by certain contractors.

XI. Discussion and Possible Action Re: Work Plan (Reports and Recommendations)

Commissioner Gee suggested and the Commission agreed, to recalendar discussion of the work plan for the next Commission meeting.

XII. Discussion and Possible Action Re: Charter Section 8.107: Suspension and Removal

Commissioner Gee suggested, and the Commission agreed, to re-calendar agenda item XII for the next meeting.

XIII. Agenda items for next meeting

It was agreed that agenda items VIII-XII would be addressed at the next regular meeting of the Commission.

XIV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

James Chaffee, Sunshine Ordinance Task Force, stated that the Sunshine Ordinance requires the Commission to disclose the nature of the pending litigation when a closed session is held.

Deputy City Attorney Julie Moll stated that the provision to which Mr. Chaffee referred does not apply to the Commission until the new Charter goes into effect on July 1, 1996. She also stated that if that provision of the Sunshine Ordinance conflicts with the Charter requirement that the Commission conduct investigations in a confidential matter, the Sunshine Ordinance provision may not apply even after July 1.

XV. Closed Session Pursuant to Ralph Brown Act, Section 54956.9 and Sunshine Ordinance Section 67.11, pending litigation

The Commission moved into closed session at 4:55 p.m.

XVI. Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14

96-5-13-25 (Geoffrey-Creed/Lee) Moved, seconded and passed that the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XVII. Adjournment

The meeting was adjourned at 5:00 p.m.

Respectfully submitted,

Cheryl Bernstein
Whistleblower/Educator

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JOSEPH JULIAN
COMMISSIONER

BRANT T. LEE
COMMISSIONER

PAUL H. MELBOSTAD
COMMISSIONER

JANE E. RUBIN
EXEC. DIRECTOR

SAN FRANCISCO ETHICS COMMISSION
AGENDA

AND NOTICE OF *SPECIAL MEETING*
WEDNESDAY MAY 29, 1996, 3:00 P.M.
1390 MARKET STREET
MEZZANINE CONFERENCE ROOM
SAN FRANCISCO

I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III. Discussion and Possible Action Re: Lobbyist Manual and Reporting Requirements

Review of Proposed Revisions to Lobbyist Manual
Issues Related to Reporting Requirements
Other Related Issues

IV. Agenda items for next meeting

V. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

VI. Adjournment

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Special

Approved 6/10/96

MINUTES OF THE
SAN FRANCISCO ETHICS COMMISSION SPECIAL MEETING
1390 Market Street, Mezzanine Conference Room 227
May 29, 1996

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:10 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Joseph Julian, Commissioner; Brant T. Lee, Commissioner; Paul H. Melbostad, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Cheryl Bernstein, Whistleblower/Educator; Ginny Vida, Investigator/Auditor; Julie Moll, Deputy City Attorney

OTHERS PRESENT: Anna Marie Booth, AT&T; Larry Bush; Anita D. Stearns Mayo, Pillsbury, Madison & Sutro; additional unidentified members of the public

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II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

There were no comments from the public.

III. Discussion and Possible Action Re: Lobbyist Manual and Reporting Requirements

Commission Chair Virginia C. Gee noted that today's special meeting is the second of two meetings scheduled for review and approval of a revised draft of the Lobbyist Manual. She advised that prior to this meeting commissioners received comments on the draft from Larry Bush and Anita Mayo. Subsequent to the last special meeting held on May 6, 1996, staff prepared a revised draft of the Manual (draft no. 3) and offered wording for two proposals discussed at the May 6 meeting. The aforementioned documents, and additional written comments from Larry Bush and Anita Mayo, were distributed at today's meeting.

Commissioner Gee requested that in the future, draft versions of the Manual and forms be dated on each page.

At Commissioner Gee's request, Commissioner Brant T. Lee chaired the discussion of the Manual. Commissioner Lee noted updates in the new draft that incorporated changes approved at the May 6 meeting. These include: (p. 10) a clarification re: honoraria; (p. 11) a requirement re: reporting contributions to ballot measure committees; and (p. 12) a clarification that reportable payments are not limited to direct communications. Forms accompanying the Manual were also updated to reflect these modifications.

Commissioner Lee focused discussion on the two draft proposals that staff had prepared per the Commission's request.

Gift Admissions. After some discussion on the issue of gift admissions and tickets as reportable items, the following motion was approved unanimously:

96-5-29-26 (Gordon-Creed/Lee) Moved, seconded and passed: That effective July 1, 1996, the Lobbyist Manual be amended to provide that lobbyists who have reached the threshold for filing an activity expense report be required to disclose gift admissions and tickets to political fund-raisers and events sponsored by 501(c)(3) organizations, including the name and date of event, and name of the official benefited; and in addition, that the Lobbyist Manual reporting form include language noting that under state law, gift admissions and tickets to such events are deemed to have no value for purposes of the lobbying ordinance.

The Commission agreed that the disclosure of gift admissions and tickets will be made on a separate form, which will be mailed to filers in advance of the October 15, 1996 filing.

Activity Expenses. The following motion on activity expenses was approved unanimously:

96-5-29-27 (Melbostad/Lee) Moved, seconded and passed: That the Lobbyist Manual be amended to require lobbyists to disclose activity expenses benefiting legislative and administrative aides to members of the Board of Supervisors.

Commissioner Lee then focused discussion on recommendations received from Anita Mayo and Larry Bush in letters to the Commission dated May 1 and May 20, respectively, and additional recommendations received from each of them today. Per Ms. Mayo's recommendation concerning payments to contract lobbyists, the following motion was passed unanimously:

96-5-29-28 (Gee/Lee) Moved, seconded and passed: That the Commission staff be directed to draft revisions to forms 2B and 2C, effective July 1, 1996, to address the method by which business and organization lobbyists and grass roots lobbyists report lump sum payments to contract lobbyists for multiple purposes, with a requirement to disclose the purpose of such payments, including the name of the contract lobbyist receiving them.

The Commission directed staff to defer inclusion in the Manual of forms associated with revisions noted in motions no. 96-5-29-26 (gift tickets and gift admissions) and 96-5-29-28 (lump sum payments to contract lobbyists) until the next edition of the Manual and forms is issued in advance of the October 15, 1996 filing. However, the June version of the Manual will instruct filers that the reporting period for gift tickets and gift admissions begins July 1, 1996.

Discussion of Proposals Offered by Anita Mayo

Pursuant to a recommendation by Anita Mayo, the Commission agreed to correct an oversight in the forms for the Manual. Forms 1A, 1B and 1C will now include a section for filers to identify City and County agencies contacted, per instructions in the Manual.

Commissioner Lee requested that in the future, wherever possible, forms be condensed and printed on two sides in an effort to conserve paper.

Per a recommendation by Anita Mayo, the Commission agreed to clarify a section of Form 1A as follows: 1) If the filer is a sole proprietorship the name of the sole proprietor must be disclosed; 2) if the filer is a corporation, however organized, the name of the officers must be disclosed; 3) if the filer is a partnership, however organized, with ten or more partners, the name of the partnership must be disclosed; 4) if the filer is a partnership with fewer than ten partners, the name of each partner must be disclosed.

Per a suggestion from Anita Mayo, the Commission unanimously approved a clarification of the forms re: authorization and termination of clients by contract lobbyists:

96-5-29-29 (Julian/Gee) Moved, seconded and passed: That the stand-alone forms prepared by staff re: client authorization and termination are approved for use in the revised Manual.

It was noted that a separate form is available for client authorization and client termination.

Per Ms. Mayo's suggestion, the Commission unanimously approved as follows a correction to the form regarding Disclosure of Employment of City or County Officer or Employee:

96-5-29-30 (Lee/Julian) Moved, seconded and Passed: That the form regarding Disclosure of Employment of City or County Officer or Employees be amended to add the word "appointed" (i.e., Name of employee appointed) to the section in which the employee's identity is disclosed.

After discussion, the Commission agreed to retain original language in the Manual requiring lobbyists to attach form 2A, 2B or 2C when terminating their registration.

Discussion of Proposals Made by Larry Bush

Per a recommendation by Larry Bush, the Commission approved a motion re: the form entitled, Disclosure of Employment of City or County Officer or Employee, as follows:

96-5-29-31 (Lee/Gee) Moved, seconded and passed: That the language of the Lobbyist Ordinance section 16.528 be tracked in the form entitled, Disclosure of Employment of City or County Officer or Employee.

Per a recommendation from Larry Bush, the following motion was passed unanimously re: clarification that domestic partners are considered immediate family members for purposes of lobbyists' disclosure of activity expenses.

96-5-29-32 (Melbostad/Gee) Moved, seconded and passed: That effective July 1, 1996, filers must report activity expenses benefiting domestic partners, City and County officers and candidates for City and County office totaling more than $20 in value in a calendar month. (This refers to SF Administrative Code section 16.523 (I), Activity Expenses: "Any expense incurred or payment made by a lobbyist or lobbyist's client or arranged by a lobbyist or a lobbyist's client which benefits in whole or in part any officer of the City and County, candidate for municipal office or a member of the of the immediate family of one of these individuals.")

The following motion was passed unanimously:

96-5-29-33 (Lee/Gordon-Creed) Moved, Seconded and Passed: That the Commission staff be directed to fax to Commissioner Lee the revisions to the Lobbyist Manual and forms approved at today's meeting for his review and approval.

IV. Agenda Items for Next Meeting

It was noted that several issues raised at today's meeting had not been addressed or resolved. Some of these issues are addressed in Supervisor Tom Ammiano's proposed ordinance, which the Commission will consider at a special meeting on June 17, 1996. The Commission decided, therefore, that the agenda for the Commission's July 8 meeting will include a decision re: whether to schedule a special meeting to address remaining issues from today's meeting.

Commissioner Melbostad suggested that in preparation for the next meeting, Commissioners would find it helpful to review the Administrative Code of the San Francisco Contributions Campaign Ordinance and a section from the San Diego ordinance that he distributed today.

V. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

There were no public comments.

VI. Adjournment

There being no further business, the meeting was adjourned at 5:30 p.m.

Respectfully submitted,

Ginny Vida
Investigator/Auditor

Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, JUNE 10, 1996, 3:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM
SAN FRANCISCO

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I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III. Discussion and Possible Action Re: Minutes: Meetings of May 6, 1996, May 13, 1996 and May 29, 1996

IV. Chairperson's Report
- A. Performance Evaluation
- B. Annual Report
- C. Departure of Commissioner Brant T. Lee

V. Director's Report
- A. Updates: Budget, electronic filing
- B. Projects and Activities

VI. Discussion and Possible Action Re: Election of Chairperson and Vice-chairperson for one year terms commencing 7/1/96.

VII. Discussion and Possible Action Re: Work Plan (Reports and Recommendations)

VIII. Discussion and Possible Action Re: Implementation of Campaign Finance Reform Ordinance provisions regarding contributions by certain contractors

IX. Discussion and Possible Action Re: The conversion of unpaid accrued campaign expenditures into contributions

X. Discussion and Possible Action Re: Discounts/free inclusions on Slate Cards as contributions

XI. Discussion and Possible Action Re: Charter Section 8.107: Suspension and Removal

XII Agenda items for future meetings

XIII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XIV. Adjournment

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MINUTES OF THE SAN FRANCISCO ETHICS COMMISSION MEETING

1390 Market Street, Mezzanine Conference Room 227
June 10, 1996

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:10 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Joseph Julian, Commissioner; Brant T. Lee, Commissioner; Paul H. Melbostad, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Cheryl Bernstein, Whistleblower/Educator; Ginny Vida, Investigator/Auditor; Julie Moll, Deputy City Attorney

OTHERS PRESENT: Larry Bush; Anita Mayo, Pillsbury Madison & Sutro; Joseph Swimmer, Pillsbury Madison & Sutro; Alex Tiger, Nielsen, Merksamer et al

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

There were no comments from the public.

III. Discussion and Possible Action Re: Minutes: Meetings of May 6, 1996; May 13, 1996; and May 29, 1996

The minutes of the May 6, May 13 and May 29, 1996 meetings were amended and approved. Copies will be available at the July 8, 1996 meeting.

IV. Chairperson's Report

A. Performance Evaluation. Commissioner Gee reported that the performance evaluation for the Executive Director was postponed to July 8, 1996 in light of today's full agenda.

B. Annual Report. Commissioner Gee advised that Executive Director Jane Rubin is preparing the Annual Report for submission to the Mayor and the Board of Supervisors on July 1, 1996. She noted that the Commission will have an opportunity to review and comment on the draft report.

C. Departure of Commissioner Brant T. Lee. Commissioner Gee announced that Commissioner Lee has notified her of his departure from the Commission effective June 30, 1996. Commissioner Lee advised that he has accepted a position as professor of law in Syracuse, New York.

V. Director's Report

A. Updates: Budget, Electronic Filing.

Executive Director Jane Rubin reported that the Ethics Commission now has internal E-mail and is also connected to the Internet. Members of the Commission requested that staff forward E-mail messages addressed to them. Staff will also advise Commissioners on how they may dial in via the Internet to retrieve their E-mail. Ms. Rubin stated that staff will revise the Commission's letterhead to include its new E-mail address and will order new business cards for Commission members after today's election of new officers.

Ms. Rubin reported that the Mayor presented his budget proposal to the Board of Supervisors last week, which includes $285,000 for the Ethics Commission. The only significant change for the Commission over last year's budget is the inclusion of a $25,000 work order to ISD to create and maintain a web site; and an additional $5,000 for related equipment.

Ms. Rubin reported that she met on June 3 with the Board of Supervisors' budget analyst. The Ethics Commission expects to obtain a copy of the Supervisors' recommendations this week. The following week the budget will be referred to the Board's Budget Committee. Budget hearings will be held June 17, 18 and 19.

Commissioner Gee noted that since there is no funding for additional staff, the Commission will need to approve a workload that current staff can handle.

B. Projects and Activities

Ms. Rubin stated that the annual report is in progress, and that an initial draft covering Commission activities will be ready within the next few days. A second section on legislative recommendations will be prepared later, with the assistance of the City Attorney's Office.

Ms. Rubin reported that the revised Lobbyist Manual will be ready to mail tomorrow, and that a press release will be distributed. Commissioner Lee advised that the new Manual

reflects changes adopted by the Commission, but does not include additional proposals that the Commission has not yet been able to address. These can be calendared for future meetings.

The Commission also sent a letter last week to candidates for the Board of Supervisors and Board of Education who have not filed their acceptance of ceilings of campaign expenditures.

Commissioner Lee suggested that training be provided to increase the staff's knowledge of the world of consultants and lobbyists, since the Commission is mandated to regulate them. Commissioner Gee suggested that the Work Plan should include such training for Commission members as well. Commissioner Melbostad noted that the Commission might gather this type of information through testimony from grass roots activists who may feel that their influence is being diluted by the practices of some campaign consultants and lobbyists who may engage in improper campaign tactics.

Commissioner Gordon-Creed stated that the Commission needs to hear opposing views on such matters.

VI. Discussion and Possible Action Re: Election of Chairperson and Vice-Chairperson for one-year terms commencing 7/1/96.

Ms. Rubin outlined procedures for the election of Chairperson and Vice-Chairperson of the Commission. After nominations, the following motions were passed unanimously:

96-6-10-34 (Melbostad/Julian) Moved, seconded and passed: That Virginia C. Gee be re-elected to serve a one-year term as Commission Chair, commencing July 1, 1996.

96-6-10-35 (Melbostad/Julian) Moved, seconded and passed: That Geoffrey Gordon-Creed be elected to serve a one-year term as Commission Vice-Chair, commencing July 1, 1996.

Commissioner Melbostad said that he hoped that he and Commissioner Julian would be considered for officers' positions in the future.

VII. Discussion and Possible Action Re: Work Plan (Reports and Recommendations)

Commissioner Gee observed that discussion of the Work Plan was held over from the previous month's agenda. Commissioner Gordon-Creed noted that the Work Plan would require an open-ended discussion. At his request, this item was moved to the end of

today's agenda to allow for discussion of specific substantive agenda items (VIII, IX, X and XI).

At Commissioner Gee's request, Commissioner Melbostad presided during a discussion of items VIII, IX, X and XI.

VIII. Discussion and Possible Action Re: Implementation of Campaign Finance Reform Ordinance provisions regarding contributions by certain contractors.

Ms. Rubin explained that the agenda item VIII refers to a provision indicating that candidates for office cannot accept contributions from certain contractors who have contracts pending with City government.

Commissioner Melbostad restated his proposal as follows: that the Commission direct the Commission staff to request that the Chief Administrative Officer and the Executive Director of Human Rights provide the list of entities seeking contracts subject to approval of the Board of Supervisors so that these entities can be cross checked against the campaign contribution lists. Commissioner Melbostad said the lists should be made available to the public in the same place as the contribution documents, for cross-checking purposes.

Ms. Rubin expressed concern that these lists might not provide the Commission with a complete list of contractors. She noted that departments often enter into a contract process long before it may reach the CAO or Human Rights. Ms. Rubin said she has concerns about the Commission's ability to implement this provision in terms of accessing the information. She suggested that perhaps the Commission should focus on educating candidates about this provision.

Mr. Bush stated that all contracts are sent to the CAO and Human Rights. He raised the question of whether the City Attorney has reached an opinion on what constitutes a City contract. Is it when an applicant responds to a Request for Proposal with a formal bid? Or is it when an entity has a bid that is moving forward to the Board for a vote? Mr. Bush suggested that the Ethics Commission send a letter to all current candidates, and those who are paying off their campaign debts, advising them of the requirements of this ordinance. He also requested that the Commission ask the City Attorney to explain what constitutes the process of bidding.

Ms. Rubin noted that the provision in question (Section 16.510-2 of the Campaign Finance Reform Ordinance) refers to the "commencing of negotiations." She pointed out that it is difficult to identify contracts from the actual commencement of their being negotiated.

Ms. Mayo said that the CAO and Human Rights will probably have only lists of contracts that are already in place. She noted that there is no prohibition against making

contributions once the contract is in place; it is only during the negotiation process that entities cannot make contributions.

After some discussion, the Commission requested that staff research which entities qualify as contractors under the Ordinance; obtain lists of such persons from the Chief Administrative Officer, Human Rights and other sources; and present a specific proposal to the Commission at a future meeting re: monitoring and enforcement of the Campaign Finance Reform Ordinance. Per a suggestion from Mr. Bush, the staff will ask City of Oakland officials how they are implementing an identical policy and procedures. Commissioner Lee suggested that staff also obtain lists of contracts that are up for bidding.

Ms. Rubin suggested that staff could contact the Board of Supervisors re: the bidding process and also request that departments inform the Commission when they select a bidder, prior to negotiating a contract with them. Anita Mayo stressed that potential contractors should be made aware of the policy re: when negotiations commence. Ms. Moll confirmed that the Commission is authorized to offer such guidance and that it is appropriate for it to do so.

IX. Discussion and Possible Action Re: The conversion of unpaid accrued campaign expenditures into contributions

Commissioner Melbostad proposed that the Commission adopt provisions similar to those in the San Diego Code, distributed at today's meeting. These provisions provide that "a candidate or committee that accepts goods or services for political purposes on credit... shall pay for those goods and services in full no later than 90 calendar days after receipt of a bill or invoice, and in no event later than 90 calendar days after the last day of the month in which the goods were delivered or the services rendered."

Commissioner Melbostad observed that printers or mail houses sometimes overlook or discount the bill if the candidate wins, and under existing regulations the value of the printing is not counted toward the campaign contribution limit of $500. He said that this forgiveness or discounting of the bill provides an in-kind contribution for which disclosure should be required.

Commissioner Gordon-Creed suggested that the Commission might consider including a clearer definition of goods and services from the San Diego Code. Commissioner Melbostad noted that another section defines credit.

Ms. Rubin observed that the San Diego ordinance does not convert such unpaid-for goods and services to contributions; it provides that it is a violation to forgive or discount unpaid-for goods and services.

Commissioner Melbostad said that the San Diego law did not go far enough. He would like the Commission to count the value of such goods and services toward the contribution limit.

Mr. Bush stated that if someone is discounting goods and services deliberately to avoid compliance, the unpaid accrued expenses should then be converted to campaign expenditures so that they are disclosed.

Commissioner Melbostad expressed concern that someone could knowingly solicit a credit arrangement to avoid having to disclose campaign contributions.

Commissioner Melbostad requested that the Commission ask the City Attorney's Office to prepare, for consideration at the Commission's next meeting on July 8, language for the Commission to adopt a rule or regulation providing that after a period of time an unpaid accrued campaign expenditure would be either deemed a contribution or there would be some other violation of the act subject to penalties.

Ms. Moll advised that Christine Maguire, Deputy City Attorney of San Diego, reports that this provision has never been enforced because her office has advised that it is unconstitutional. Ms. Moll said the Commission may be able to advise a rule which is enforceable. She suggested that it may be possible to amend the definition of "contribution" in the City's campaign ordinance to treat accrued expenses as contributions.

Ms. Rubin said that a level playing field is also an issue. If one candidate or committee does not have to pay but someone else does, the law should put people on equal footing.

Anita Mayo suggested that if it is not too burdensome, the Commission might adopt the federal policy that allows for a debt settlement plan or a debt cancellation. In this case the vendor benefits from a tax write-off. Larry Bush expressed support, noting that perhaps losing candidates could submit settlement documents to the Ethics Commission for public inspection.

Commissioner Lee questioned whether 90 days is the right amount of time for conversion of unpaid accrued expenses to contributions. Commissioner Melbostad responded that if the bill is not paid within 90 days, it probably will not be paid. He proposed that the Commission penalize only those vendors who knowingly solicit or extend credit beyond 90 days.

Commissioner Melbostad noted that the definition in section 16.503 of the City's campaign ordinance states that "...contributions shall be defined as set forth in Government Code 81000 ...provided that contributions shall include loans of any kind or nature." He said the Commission could consider extension of credit as a loan and adopt his proposal as a rule or regulation.

Commissioner Lee stated that the Commission should define "willful violation." Mr. Bush noted that if a vendor offers the same discount to all candidates, there would be no willful violation.

Commissioner Melbostad requested that the City Attorney's office review the Glenn federal court case and draft language proposing the best way to regulate accrued expenditures so as to be enforceable and to address concerns that Commissioner Lee and others have raised. Ms. Moll agreed to draft such language.

X. Discussion and Possible Action Re: Discounts/free inclusions on Slate Cards as contributions

Commissioner Melbostad proposed that discounted or free inclusion on a for-profit slate card should be deemed a contribution and subject to contribution limits. He said that vendors of such slate cards will charge a fee to include candidates on the slate card. Inclusion on the slate card is not based on the politcal club's or membership organization's endorsement. On the other hand, some well-known candidates are not charged a fee because they are deemed to add respectability to the slate.

Commissioner Melbostad suggested that San Francisco's ordinance refers to Government Code 8.82015, which defines contribution as "including the granting of discounts or rebates not extended to the public generally." Under that definition, he said, if a slate card vendor charges one candidate $500 and the others $5,000, the candidate receiving the discount would be credited with receipt of a $4,500 contribution. Such candidate, if elected, would then be subject to undo influence on the part of the vendor.

Commissioner Lee expressed concern that such a regulation might violate the first amendment rights of the vendor. Commissioner Melbostad responded that a court would not find that this proposal unconstitutionally restricts free speech.

Ms. Rubin inquired as to whether the candidate would be responsible for inquiring whether his/her fee is a discount. Ms. Rubin noted that the candidate might learn only after the fact that he or she had accepted a discount.

Commissioner Melbostad responded that his proposal is intended to penalize only the vendor. He suggested that later on, the Commission might adopt a regulation addressing whether candidates are "knowingly accepting or soliciting a discount." Only in such a case would a candidate be held responsible.

Ms. Mayo expressed concern that a candidate could be harmed in the eyes of the electorate and the press if he/she unwittingly accepts a discount inclusion on the slate card and is not aware of its value. She stated that if the Commission adopts this proposal, it should require slate card vendors, when they ask the candidate's permission to include his/her name, to inform the candidate at that time of the value of the inclusion.

A discussion ensued about the free speech rights of a person making an independent expenditure--that is, if the person is not coordinating with the campaign or working at the behest of a candidate.

Commissioner Melbostad stated that for the most part, for-profit vendors are not making an independent expenditure because they are not spending their own money. Larry Bush agreed, stating that if any other for-profit vendor offered a discount to a candidate, it would be reportable as a contribution.

Commissioner Gordon-Creed stated that there is still a first amendment issue--that of being able to support a candidate for whatever reason. He suggested that the Commission ask the City Attorney's office for an opinion on this matter.

Ms. Moll advised that there have been a number of proposals to deal with this issue, but none was likely to withstand constitutional challenge. She said numerous Supreme Court cases make clear that just because some persons are paid to produce a slate mailer does not mean that their first amendment rights are diminished.

Commissioner Melbostad requested that the City Attorney's Office prepare proposed language for a rule or regulation consistent with the definition of contributions and expenditures in the current ordinance and in the Government Code and with FPPC definitions of contributions and expenditures, and to advise the Ethics Commission on what it can propose.

In response, Ms. Moll stated that there is a new definition of contributions under state law which may in part address this problem--i.e., which seems to provide that a discount on access to a slate mailer is a contribution. But it is up to the FPPC to determine how the new definition of contribution and the preexisting section on slate mailers are going to be harmonized. Ms. Moll suggested that it would be useful to discuss this matter with the FPPC. She said that the changes in state law may resolve at least part of the problem under discussion today. At the Commission's request, Ms. Moll agreed to report back to the Commission on this matter at the next meeting.

Commissioner Melbostad stated that the possibility of a constitutional challenge should not always deter the Commission from taking action.

Commissioner Lee restated his concern about the first amendment rights of for-profit slate mail vendors, regardless of whether they raise the money for the mailing from candidates on the slate.

Commission Chair Gee advised that discussion on Item X will be continued at the Commission's next meeting.

XI. Discussion and Possible Action Re: Charter Section 8.107: Suspension and Removal

Ms. Rubin informed the Commission that a section of the Charter provides that with respect to certain specified commissions, if the Mayor charges that a commission member be removed for cause, such charges would be brought to the Ethics Commission, which would then make a recommendation to the Board of Supervisors. Ms. Rubin said the Commission is unaware of any imminent pending action that would involve the Commission in this role. She suggested that the Commission might wish to develop a procedure should that situation arise in the future.

Commissioner Gee noted that Ms. Rubin had sent a memo dated May 7, 1996, to Commission members re: this informational issue.

Commissioner Gordon-Creed advised that he recently sent a memo to the Executive Director on establishing procedures the Commission would follow in conducting hearings on removal for cause.

Ms. Moll described the conditions under which, under the new Charter, commission members may be removed, and under what circumstances removal would be for cause only. She noted that removal of Ethics Commission members may involve a different procedure.

VII. Discussion and Possible Action Re: Work Plan (Reports and Recommendations)

Commissioner Gordon-Creed stated that one of the Commission's mandates is to make recommendations to the Mayor and Board of Supervisors on issues involving conflicts of interests, lobbying laws, government ethics, campaign finance reform, amendments to the Charter, and the effectiveness of various laws affecting those issues. He noted that the annual report, a component of this mandate, is being prepared by staff.

Commissioner Gordon-Creed asked Commissioner Melbostad to work with Ms. Rubin in drafting a section of the annual report identifying issues the Commission has dealt with, changes it has implemented and recommended changes in the law. Commissioner Melbostad agreed to perform this role.

Ms. Rubin noted that specific proposals for changes in the law would need to be drafted by the City Attorney's Office. Commissioner Gordon-Creed suggested that relevant minutes should be attached to proposals drafted by the City Attorney's Office for inclusion in the annual report.

XII. Agenda Items for Future Meetings

Commissioner Gee noted that a continuing discussion on proposed changes in the lobbyist manual should be added to the next agenda, per minutes of the May 29, 1996 meeting. Commissioner Lee suggested that whoever is going to lead that discussion could decide whether a special meeting is needed or whether this discussion could be included in the agenda for the next regular meeting. It was decided to calendar this matter for the August 12 agenda.

Larry Bush stated that the current interpretation of electronic filing requirements does not include slate mailer organizations. Ms. Moll stated that she will look into this matter. It was decided to include this item on the July 8 agenda.

Ms. Rubin advised that the Commission has scheduled a special meeting on June 17, at 3:00 p.m. in the Hispanic Latino Community Room of the Main Library, to discuss the Honest Election Ordinance. Commissioner Melbostad urged Commission members to encourage community groups to attend this meeting. In response to a query by Commissioner Melbostad, Ms. Moll stated that a draft of the Honest Election Ordinance would be ready next week. It was decided to send an advisory letter re: the June 17 meeting to all lobbyist filers.

Commissioner Lee mentioned that the Commission had requested a staff memo on the Honest Election Ordinance. Ms. Rubin responded that staff cannot prepare this until it is provided with a draft of the Ordinance.

Ms. Moll said she was unclear what role the Commission wanted her to perform at the June 17 meeting. She said it would be inappropriate to speak frankly at a public meeting about legal issues in any legislation if a legal challenge is likely. She did not want to provide a road map to potential litigants about how to sue the city.

Commissioner Melbostad said that a discussion of the policy issues should come first, and then Ms. Moll would be asked for a legal analysis.

Commissioner Melbostad said that the Commission only meets regularly two hours per month, and that it needs to be less hesitant to take action on matters that it perceives might pose a potential legal problem.

Commissioner Gordon-Creed stressed that the Commission also needs to be thoughtful about proposals put forward by politically interested persons.

Commissioner Gee thanked the commissioners for their vote of confidence in re-electing her as Chairperson, and she offered her congratulations to Commissioner Gordon-Creed upon his election as Vice Chair.

Commissioner Melbostad, joined by Commissioners Gee, Gordon-Creed and Julian, thanked Commissioner Lee for his service to the Commission.

XIII. Public Comments Re: Matters Appearing or Not Appearing on the Agenda

There were no public comments.

XIV. Adjournment

The meeting was adjourned at 5:45 p.m.

Respectfully submitted,

Ginny Vida
Investigator/Auditor

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JOSEPH JULIAN
COMMISSIONER

BRANT T. LEE
COMMISSIONER

PAUL H. MELBOSTAD
COMMISSIONER

JANE E. RUBIN
EXEC. DIRECTOR

SAN FRANCISCO ETHICS COMMISSION
AGENDA

AND NOTICE OF *SPECIAL MEETING*
MONDAY, JUNE 17, 1996, 3:00 P.M.
SAN FRANCISCO MAIN PUBLIC LIBRARIES
100 LARKIN ST.
LATINO/HISPANIC COMMUNITY ROOM
LOWER LEVEL
SAN FRANCISCO

Please note change of location, for this meeting only.

I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III. Discussion and Possible Action Re: "Honest Election Ordinance"
(Ordinance proposed by Supervisor Tom Ammiano)

Design and content issues
Implementation issues
Other related issues

IV. Agenda items for next meeting

V. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

VI. Adjournment

1390 Market Street, Suite 701 • San Francisco, CA 94102-5302 • Phone (415) 554-9510 • Fax (415) 703-012

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance contact the Sunshine Ordinance Task Force at 554-6075.

This location is wheelchair accessible. In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity, or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

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Special

Approved 7/8/96

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MINUTES OF THE
SAN FRANCISCO ETHICS COMMISSION *SPECIAL MEETING*
100 Larkin Street, Latino/Hispanic Community Room
June 17, 1996

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:05 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair: Geoffrey Gordon-Creed, Vice-Chair; Joseph Julian, Commissioner; Brant T. Lee, Commissioner; Paul Melbostad, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Cheryl Bernstein, Whistleblower/Educator; Deputy City Attorney Julie Moll, Office of the City Attorney

OTHERS PRESENT: Philip Babcock; Larry Bush; Gwen Craig; John Dunbar; Lisa Hill for T.J. Anthony; Mike Housh, Aide to Supervisor Tom Ammiano; Jo Kuney; Clayton Mansfield; Anita Mayo, Pillsbury, Madison & Sutro; Maggie Muir; Jim Prevo; Thomas Ranch; Jeff Sheehy, Harvey Milk Lesbian & Gay Democratic Club; Jim Sutton, American Association of Political Consultants; Andrew Wong

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda
Jim Prevo requested that the Ethics Commission launch an investigation into Commissioner Melbostad's alleged involvement in a political campaign. Commissioner Gee stated that the document regarding the complaint had been received and referred to Commission staff.

Commissioner Melbostad commented that the City Charter clearly states prohibitions on Commissioners' conduct. Commissioner Gee stated that a Commission meeting is not the appropriate forum for making a complaint to the Commission, and that the complaint could not be addressed during the meeting.

III. Discussion and Possible Action Re: "Honest Election Ordinance"
(Ordinance proposed by Supervisor Tom Ammiano)
Design and content issues
Implementation issues
Other related issues

Commissioner Gee stated that Commission Vice-Chair Gordon-Creed would lead the discussion of the "Honest Election Ordinance." She also appointed Geoffrey Gordon-Creed as the Commission's lead person on all legislative matters.

Commissioner Gordon-Creed noted that the document for the discussion of the Honest Election Ordinance is dated June 14, 1996, and is entitled "Draft #4." Commissioner Gordon-Creed requested that discussion of the ordinance proceed in an orderly fashion. He asked for a show of hands to determine how many individuals wished to testify on the ordinance. Commissioner Gordon-Creed explained that since the number of individuals wishing to testify was high, a sign-up sheet would be utilized. He noted that testimony would be taken in the same order that individuals sign up on the sheet. He requested that individuals indicate on the sign-up sheet as to whether they are for or against the ordinance.

Commissioner Melbostad inquired if individuals wishing to testify needed to identify themselves or the clients they are representing on the sign-up sheet. Commissioner Gordon-Creed responded that the Sunshine Ordinance does not require individuals to identify themselves or their clients. He noted that individuals could use a mere mark on the paper to "identify" themselves. He also noted that the Commission needed to have time during the meeting to discuss the ordinance, and he urged individuals testifying to limit their comments to approximately five minutes apiece. He inquired of Mr. Housh, aide to Supervisor Tom Ammiano, if this was an acceptable manner in which to proceed.

Mr. Housh responded that this was acceptable, and he extended the gratitude of Supervisor Ammiano to the Ethics Commission for taking the time to discuss the ordinance. He stated that the Supervisor had taken the concerns of the Commission seriously, and that Draft #4 represents an attempt to address those concerns. He noted that the Supervisor welcomes whatever additional input and comments which would come about from today's meeting.

Commissioner Gordon-Creed informed individuals about to testify that the Commission may wish to ask questions later in the meeting, and that individuals may therefore not want to leave the meeting immediately after finishing their testimony. He noted that he would now request individuals to testify according to the order in which they signed up.

Mr. Jim Sutton testified that he was appearing on behalf of the American Association of Political Consultants. He stated that the ordinance unfairly targets the political consultants and has serious constitutional problems. He asked the Commission to delay taking an official position on the ordinance until further study on the constitutional issues has taken place. He recommended that the Commission ask the Board of Supervisors to do the same. He urged the Commission to follow the Los Angeles Ethics Commission as a model for studying the ordinance before it goes to the city council for a vote. He noted that Draft #4 had only been released to the public on June 14, 1996, and this did not allow an adequate amount of time to study the ordinance.

Mr. Sutton testified that the ordinance has several constitutional problems. The ordinance affects the First Amendment rights of political consultants, individuals earning $10,000 or more, lobbyists, candidates and ballot measure committees. The ordinance affects freedom of speech, freedom of association, and the right to petition the government. Therefore, the ordinance is subject to the legal test of strict scrutiny. Mr. Sutton testified that no compelling governmental interest exists. He stated that there is no proof that political

consultants present such a severe problem in San Francisco to justify the ordinance. He urged the Commission to look at its own reports on the lobbyist filings for the last three quarters. He stated that the lobbyist reports show the following: only three to four of all registered lobbyists also do campaign consulting; the percentage of fees received by those lobbyists/campaign consultants is 10% of all fees reported received by lobbyists; and the campaign contributions made by those lobbyists/campaign consultants is less than 10% of all political contributions reported made by lobbyists in any given quarter.

Mr. Sutton testified that the ordinance assumes that candidates give special treatment to political consultants. Mr. Sutton stated this is not true because candidates often become involved in disputes with their campaign consultants over the amount of fees owed. Mr. Sutton testified that all of the information asked for in the ordinance is already disclosed in campaign disclosure reports and lobbyist quarterly reports.

Maggie Muir testified that she is an employee of a political consulting firm and will be affected by this ordinance. She stated that her duties involve creating campaign materials, letterhead and mailers. She testified that she does not have undue influence over candidates because they are not beholden to her for having designed their letterhead, and yet because she makes more than $10,000, she will be subject to the ordinance. She stated that if she were an elected official, the ordinance would be an insult to her integrity.

Deputy City Attorney Julie Moll stated that employees of political consulting firms have no reporting obligations themselves. She cited Section 16.541(a) of the ordinance.

Jo Kuney testified that not all political consultants earn six figures and wield significant power over City officials. She stated that some political consultants have small incomes and advocate for social justice. She testified that she, as a small political consultant, would not be able to afford the $50 fees charged for clients due to the seasonal nature of her business. She also testified that the prohibitions on whom political consultants can lobby could negatively affect her business. She stated that the prohibition on pro bono lobbying could be a great disservice to the community.

Lisa Hill testified on behalf of T. J. Anthony. She stated that the ordinance is not sound political reform. She testified that the ordinance suggests officials do not have the integrity to vote their consciences.

Clayton Mansfield testified that he is tired of "hit" pieces in his mailbox that are based on half-truths and line the pockets of political consultants. He stated that the political consulting profession is not willing or capable of policing itself. He urged the Commission to endorse the ordinance with all deliberate speed.

Jeff Sheehy testified on behalf of the Harvey Milk Lesbian & Gay Democratic Club. He stated that he feels severely disempowered by the political consultants in San Francisco. He testified that the political consultants have taken over the role of community groups and democratic clubs to address the issues. He also testified that the grassroots people need to

be involved in shaping public policy. He stated that consultants have undue influence over the officials they helped to elect.

Andrew Wong, an independent contractor, testified that he applauds Supervisor Ammiano's efforts to address this issue, but that he opposes the ordinance because of its technical problems. He stated that the ordinance has an adverse effect on small businesses. He is concerned about restrictions on lobbying clients, both paid and pro bono. He is also concerned about the fees charged per client in the ordinance. He testified that small political consultants often need a large number of small clients, and the fees could be burdensome. He requested clarification on the definition of a client because in some cases his consulting consists solely of providing a mailing list for a fee.

Deputy City Attorney Moll stated that the ordinance does not in any way restrict pro bono lobbying. The restrictions on lobbying in the ordinance refer only to lobbying local officeholders in exchange for economic compensation.

Anita Mayo testified on behalf of Pillsbury, Madison & Sutro. She stated that if the intent of the Ethics Commission is to follow the money flow, the information is already available in campaign finance disclosure reports and in lobbyist quarterly reports. She also testified that the ordinance restricts the ability of someone to earn a living.

Gwen Craig testified that she hopes the Commission's efforts will lead to a more balanced and just process. She stated that she wants to return the choice of candidates who shape public policy to the citizens of San Francisco. She urged the Commission to support the ordinance while incorporating the suggestions heard at today's meeting.

John Dunbar testified that he supports the ordinance. He stated that industries, like political consulting, do not like to be regulated. He urged the Commission to change the ordinance by extending the ban on lobbying officeholders from one year to the length of the official's term.

Commissioner Gordon-Creed requested that since public testimony had come to a close, the meeting move to a discussion of the ordinance itself. Commissioner Gee stated her concern that the discussion address the ordinance's impact on the Commission's workload, staffing, office space, technology and budget. She requested additional information from Mr. Sutton on the nature of the American Association of Political Consultants: by-laws, code of ethics, and credential procedures. She stated that the public may have a difficult time discerning the differences between political consultants and lobbyists.

Commissioner Melbostad stated that he supports the ordinance and hopes the Commission will vote to support it. He stated that the crux of the ordinance is to remove the undue influence of professional political consultants and to return power to the voters. He stated that the sole reason people hire political consultants to lobby for them is because the consultants are owed something. He stated the candidate may feel indebted to the consultant for having run a successful campaign or for having given a significant discount

on mailers or slate cards. He stated that the candidate may want to stay on good terms with the consultant so that the consultant will run the candidate's re-election campaign. He stated that the ordinance would not put any consultant, no matter how small, out of business. He also stated that the ordinance would not restrict consultants from doing pro bono lobbying.

Commissioner Melbostad stated that the ordinance will shed the light of day on the activities of political consultants. He stated that a compelling interest does exist to justify the ordinance: removing the undue influence of political consultants. He noted that Mayor Brown supports the ordinance.

Commissioner Melbostad stated that the call for a study on the ordinance by the political consultants was a tactic designed to delay enactment of the ordinance until after the fall election. He urged the Commission to support the ordinance and to include suggestions for modification where appropriate.

Commissioner Julian inquired as to the process if the ordinance is challenged in court. Deputy City Attorney Moll responded that the Commission has power to give input only regarding Draft #5 of the ordinance. Once the legislation is passed by the Board of Supervisors, it will go into effect within 30 days. Even if there is a legal challenge, the Commission will still have the duty to implement it.

Commissioner Lee stated several concerns about the ordinance: (1) the nature of the client fees called for in the ordinance - punitive or revenue raising; (2) the definitions of political consultant, lobbyist and community activist; and (3) confusion about the duties of employees of political consultants. He stated that he opposes the ordinance in its current form.

Commissioner Gordon-Creed stated the impact of the ordinance on the work of the Commission needed to be addressed. He stated that the idea behind the ordinance, shedding light on the activity of political consultants, was a good one. He stated that the tenor of the ordinance is unnecessarily punitive and small business political consultants will be heavily burdened by the fees and fines. He also stated that some of the language in the ordinance is vague. He pointed to Section 16.543(a)(9) as an example. He stated that the reporting obligations regarding political contributions "made or arranged" is unclear.

Commissioner Gordon-Creed stated that he supports the legislation in principle, but not in its current form. He also stated his concern about additional lofty mandates being required of a Commission which has a tight budget and a small staff.

Commissioner Gordon-Creed requested clarification regarding the hierarchy of charter mandates versus ordinance mandates. Deputy City Attorney Moll replied that the Commission must make resource allocations. Executive Director Rubin stated that the most important factor was time. She stated that the ordinance calls for the Commission to have a manual and forms ready soon after its approval. Some of the forms can parallel the

lobbyist filing forms, but some will need to be designed from scratch. She stated that the ordinance also calls for the following: creation of informational packets; acknowledgment form; affirmation of code of conduct; issuance of registration numbers; educational seminars; and a record-keeping system. She also stated that the issue of the confidentiality waiver in Section 16.543(j) requires much thought regarding its implementation.

Deputy City Attorney Moll stated that the timing of keeping information confidential could act as a loophole. There is a question about how the law would effect keeping information confidential.

Executive Director Rubin stated that she was not speaking on the concept of the ordinance, but solely on administrative concerns raised by the ordinance. She stated her concern for the process of approval by the Commission regarding the new manual and forms which would have to be developed if the ordinance is approved. She stated that the Commission also has significant on-going responsibilities: filing; reports; fine assessment; and advice-giving.

Commissioner Gordon-Creed asked if the ordinance has been submitted to the Board. Mike Housh replied that the ordinance has not been submitted yet. Once the City Attorney approves it as to form, the ordinance will be introduced. A public hearing will take place as will further refinements in committee. The ordinance will then go to the full Board of Supervisors and to the Mayor for approval. Mr. Housh stated that the Mayor is open to additional funding for the expanded responsibility the Commission will undertake as a result of approval of the ordinance.

Commissioner Gee stated she assumed that the fees referred to in Section 16.545(h) of the ordinance would go into the general fund. She stated that she was concerned about the overall fees being higher for political consultants than for lobbyists. She stated that this could be especially burdensome if an individual was both a lobbyist and a political consultant.

Commissioner Melbostad inquired as to the meaning of the term contributions "arranged" in the ordinance. Deputy City Attorney Moll responded that she was not aware that it was defined in state law. She stated that the Commission may need to construe the term. The definition may come from the lobbyist ordinance where it is also unclear, or the definition may come from a future advice letter or a future draft of the ordinance.

Commissioner Gordon-Creed asked Mike Housh about the type of support Supervisor Ammiano was seeking from the Commission. Mr. Housh replied that Supervisor Ammiano was asking for Commission support of two concepts: (1) political consultants, like lobbyists, have a unique role in government; requiring the same standards as lobbyists serve democratic interests (2) there is a nexus between being a political consultant and a zone of activities once the candidate is elected.

Mr. Housh stated that Supervisor Ammiano would like the Commission to continue working with him on the tone, details and practicalities (such as resource allocation) of the ordinance.

Commissioner Melbostad stated that the potential for undue influence is significant with political consultants because of the official's expectation of future consulting services at a discount or because there is a past history of discounts or of overlooking unpaid bills.

96-6-17-? (Melbostad/Julian) Moved, seconded: He moved that the Commission support the concept of the Honest Election Ordinance and recommend to the Board of Supervisors in passing final draft of the legislation that it provide sufficient staffing and funding to the Commission to carry out any new functions and mandates imposed on the Commission by the act. He also moved that the Board clarify the confidentiality provision and the meaning of the term "arranged" with regard to political contributions, and allow for a waiver of fees in hardship cases at the discretion of the Commission.

Deputy City Attorney Moll stated that if the Commission was poised to consider the motion about supporting the concept of the ordinance, the Commission could vote on that. Independent of that, the Commission could submit suggested technical changes to her. If Supervisor Ammiano approves the suggestions, they would go into the draft.

Commissioner Gee stated that she had not had an opportunity to address her concerns line by line. She stated that she did not want to lock herself into only Commissioner Melbostad's concerns.

Commissioner Lee stated that he was concerned with two main issues: (1) the interaction between the prohibition on campaign consulting without first registering, the timelines, and the $10,000 threshold (2) the due process issues involved with the ability of the Commission to issue notice to someone who the Commission believes should file under the ordinance.

Commissioner Julian stated that due to the concerns raised by Commissioners Gee, Lee and Melbostad, the Commission should not vote on the motion precipitously. He requested the Commission suspend or continue this meeting another time.

Commissioner Gordon-Creed stated that parliamentary procedure requires a motion to table this motion to another time. Commissioner Melbostad stated that the Commission meets but two hours once a month. He stated that if the Commission postpones a vote on the motion, the Commission will never recommend anything. He requested that the Commission not postpone the vote for more than one week. He offered to change his motion to satisfy the other Commissioners' concerns.

Commissioner Gordon-Creed stated that the Commission has an obligation to carefully consider this ordinance because of its far-reaching impact upon the filers and the Commission itself. He stated that he shared Commissioner Melbostad's frustration that the

draft was not available until last Friday, but he disagreed with Commissioner Melbostad's suggestion that the Commission was not fulfilling its obligation. Commissioner Julian asked if the Commission could meet again in the very near future. Executive Director Rubin replied that the Sunshine Ordinance governs the Commission's ability to call Special Meetings via its requirements for notice. She added that meeting room availability is also an issue.

Commissioner Melbostad asked if the Commission would agree to support Supervisor Ammiano's two concepts and set a meeting at the earliest possible date. Commissioner Gordon-Creed stated that he wants the Commission to give input to Supervisor Ammiano. He stated that supporting a vague policy is problematic because it is unclear what one is supporting.

Commissioner Julian asked Mr. Housh to clarify Supervisor Ammiano's two concepts. Mr. Housh replied that the two concepts were as follows: (1) because political consultants operate in a similar nexus to lobbyists, consultants should be subject to similar requirements (2) political consultants have a relationship to their current and their immediate past clients which could create an appearance of impropriety. He stated that support of these two concepts would send a message about how important these issues are to the Commission.

Commissioner Melbostad stated that the Commission needs to have input into the ordinance before the Board of Supervisors passes it. He amended his previous motion to state that the Commission supports two concepts: (1) political consultants who engage in paid lobbying activities are subject to the same requirements as lobbyists under the lobbyist ordinance (2) political consultants who qualify as lobbyists under the lobbyist ordinance are prohibited from lobbying former and current clients.

Commissioner Lee requested that the Commission vote on the two concepts separately. Commissioner Melbostad stated that the motion does not invoke lobbying as a private citizen. Commissioner Gordon-Creed suggested that the motion be table and another meeting be arranged where the Commission could vote up or down.

Commissioner Melbostad inquired as to when the Commission would have the next draft of the ordinance. Deputy City Attorney Moll replied that it depended on Supervisor Ammiano. Mr. Housh stated that the next draft would be available as soon as possible, and that the Supervisor Ammiano wanted the Commission to have a significant role in shaping the language of the ordinance. Commissioner Melbostad asked if a special meeting two weeks from today was possible. Commissioner Gordon-Creed responded that that date was not possible for him. Commissioner Melbostad suggested the vote be added as an agenda item to the meeting scheduled for July 8, 1996.

Commissioner Julian asked Mr. Housh to make sure that the Commissioners received the next draft in a timely fashion. Mr. Housh responded that he would do so. Commissioner Lee stated that because his term was ending, he would not be able to vote on the ordinance.

Commissioner Gee responded that the Commission would still have a quorum. Commissioner Melbostad requested that Mr. Housh make the draft available seven to ten days in advance of the meeting. Commissioner Lee suggested that the Commission prepare a printed resolution endorsing the concept only. Executive Director Rubin responded that if it pleased the Commission, she could be authorized to work with Deputy City Attorney Moll and Mr. Housh to finalize the implementation issues.

Commissioner Gordon-Creed asked if the motions had been withdrawn. Commissioner Melbostad stated that all previous motions were withdrawn. Commissioner Gordon-Creed stated that the vote would be an agenda item for the meeting scheduled on July 8, 1996.

IV. Agenda items for next meeting
A

V. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

Vi. Adjournment

Respectfully submitted,

Cheryl Bernstein
Whistleblower/Educator

Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

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7/8/96

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY JULY 8, 1996, 3:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

I. Call To Order and Roll Call

II. Closed Session Pursuant to Ralph Brown Act, Section 54957 and Sunshine Ordinance Section 67.11, Personnel (Performance Evaluation)

III. Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: Personnel (Performance Evaluation)

IV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

V. Discussion and Possible Action Re: Minutes: Meetings of June 10, 1996 and June 17, 1996

VI. Chairperson's Report
A. Departure of Commissioner Brant T. Lee
B. Announcement of briefing for candidates

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VII. Director's Report
A. Updates: Budget, electronic filing
B. Projects and Activities

VIII. Discussion and Possible Action Re: Annual Report

IX. Discussion and Possible Action Re: Proposed "Honest Election Ordinance"

X. Discussion and Possible Action Re: Implementation of Campaign Finance Reform Ordinance provisions regarding contributions by certain contractors

XI. Discussion and Possible Action Re: The conversion of unpaid accrued campaign expenditures into contributions

XII. Discussion and Possible Action Re: Discounts/free inclusions on Slate Cards as contributions

XIII. Agenda items for future meetings

XIV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XV. Adjournment

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7/8/96

Approved 8/12/96

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MINUTES OF THE
SAN FRANCISCO ETHICS COMMISSION MEETING
1390 Market Street, Mezzanine Conference Room 227
July 8, 1996

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:10 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Joseph Julian, Commissioner; Brant T. Lee, Commissioner; Paul H. Melbostad, Commissioner.

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Cheryl Bernstein, Whistleblower/Educator; Ginny Vida, Investigator/Auditor; Julie Moll, Deputy City Attorney

OTHERS PRESENT: Larry Bush; Lisa Hill; Michael Housh, Supervisor Ammiano's Office; Anita Mayo, Pillsbury Madison & Sutro; Jim Sutton, American Association of Political Consultants

DOCUMENTS DISTRIBUTED:
Agenda for July 8, 1996, Ethics Commission Meeting
Executive Director's Report to the SF Ethics Commission, July 8, 1996
Draft of SF Ethics Commission Annual Report
Draft Minutes of the June 10, 1996 Ethics Commission Meeting
Draft Minutes of the June 17, 1996 Ethics Commission Meeting
Summary of Honest Election Ordinance (Regulation of Campaign Consultants Ordinance)
Draft No. 5 of the Honest Election Ordinance (Reg. of Campaign Consultants Ordinance)
Regulation of Campaign Consultants: Summary of Draft #5
Regulation of Campaign Consultants: Differences Between Draft #4 and #5
Honest Election Ordinance (Reg. of Campaign Cons. Ord.) Compared to SF Lobbyist Law
Political Consultants Active in San Francisco's 1995 Election
SF Lobbyist-Consultants and Their Clients

II. Closed Session Pursuant to Ralph Brown Act, Section 54957 and Sunshine Ordinance Section 67.11, Personnel (Performance Evaluation)

The Commission meeting was conducted in closed session from 3:12 p.m. to 3:25 p.m.

III. Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14

The meeting resumed at 3:27 p.m. The following motion was passed unanimously:

96-7-8-36 (Gordon-Creed/Lee) Moved, seconded and passed: The Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: Personnel (Performance Evaluation).

IV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

Anita Mayo inquired as to when the Commission will address remaining, unresolved issues associated with the Lobbyist Manual. Executive Director Jane Rubin responded that the matter will be dealt with in August, after the July 15 lobbyist filing.

Jim Sutton inquired as to whether public comment would be invited during discussion of the Regulation of Campaign Consultants Ordinance today. Commission Vice-Chair Geoffrey Gordon-Creed advised that comments from Commission members and the public have been received and a new draft of the ordinance has just been issued. He said the matter is calendared as Item IX on today's agenda, and public comment is invited.

V. Discussion and Possible Action Re: Minutes: Meetings of June 10, 1996 and June 17, 1996

Per amendments offered by Commissioner Paul Melbostad to the June 10, 1996 minutes, and per an amendment offered by Commission Chair Gee, to the June 17, 1996 minutes, both sets of minutes were approved. The following motions were passed unanimously:

96-7-8-37 (Gordon-Creed/Julian) Moved, seconded and passed: That the minutes of the June 10, 1996 meeting be approved as amended.

96-7-8-38 (Melbostad/Julian) Moved, seconded and passed: That the minutes of the June 17, 1996 meeting be approved as amended.

VI. Chairperson's Report

A. Departure of Commissioner Brant T. Lee. Commissioner Gee presented certificates of appreciation to Commissioner Lee from the Board of Supervisors and from the Mayor, in recognition of his dedicated service to the Commission. Commissioner Lee expressed his thanks for the certificates, noting that it has been a pleasure and privilege to serve as a member of the Commission. He also noted that although he had originally intended his resignation to be effective June 30, he had decided to attend today's meeting in view of a delay in his plans to move out of state, and in the absence of a replacement for his position.

B. Announcement of Briefing for Candidates. Commissioner Gee announced that the Commission and the Office of the Registrar will offer two brown bag training sessions for candidates at the Registrar's Office on July 9 and 11. Members of the Commission and the public are invited to attend. Ms. Rubin noted that Commission staff will discuss

responsibilities of candidates and committees, particularly under the Campaign Reform Ordinance approved in the November 1995 election.

VII. Director's Report

A. Updates: Budget, Electronic Filing. Executive Director Jane Rubin advised that the Commission's budget had been approved by the Budget Committee and the Board of Supervisors. The budget, which totals approximately $311,000, includes a $25,000 work order to develop a web site for electronic filing data set-up and associated hardware.

B. Projects and Activities. Ms. Rubin announced that the Commission now has a page on the World Wide Web on the City of San Francisco's home page. She described the web functions and noted that the Commission's address on the web is: http://www.ci.sf.ca.us

Ms. Rubin advised that Ginny Vida recently spent a day with the director of auditing at the Los Angeles Ethics Commission, learning that office's auditing procedures. Ms. Rubin also noted that on July 23, Shawn Allison, Cheryl Bernstein and Ms. Vida will attend an FPPC briefing for filing officers in Sacramento on financial disclosure statements.

Ms. Rubin said that the lobbyist manual has been distributed and is now on the web site, along with the quarterly lobbyist report.

Ms. Rubin announced that a draft of the annual report has been completed and submitted to members of the Commission for approval today. The report will be submitted to the Mayor and the Board of Supervisors and public officials authorized to make appointments to the Commission, and will be installed on the World Wide Web for access to the public. The following motion to approve the report was passed unanimously:

96-7-8-39 (Gordon-Creed/Julian) Moved, Seconded and Passed: That the Commission adopt the version of the annual report submitted for today's meeting.

IX. Discussion and Possible Action Re: Proposed "Regulation of Campaign Consultants Ordinance"

At Commissioner Gee's request, Commissioner Gordon-Creed chaired the discussion of the Regulation of Campaign Consultants Ordinance (hereafter referred to as "the ordinance") an overview of which had been presented by Michael Housh of Supervisor Ammiano's Office at the Commission's June 17 meeting. Commissioner Gordon-Creed noted that in addition to the most recent draft of the ordinance (Draft No. 5), the following documents had been provided for this discussion: 1) a question and answer document on the ordinance, 2) a comparison of the ordinance with the lobbyist ordinance, 3) a document identifying lobbyists, consultants and their clients, and 4) a list of political consultants who were active in the San Francisco 1995 election. Commissioner Gordon-Creed invited comments on Draft No. 5.

Mr. Housh thanked the Commission for its hard work on this measure, indicating that Draft No. 5 reflects the sponsor's attempt to incorporate and address the issues raised by Commission members. Mr. Housh stressed that there is a fundamental need to protect the democratic integrity of San Francisco elections by establishing 1) registration and financial reporting requirements for political consultants and 2) a ban on allowing political consultants to lobby public officials when those consultants have a direct business relationship with officials whom they hope to put into office or with officials who were elected to office with the paid consultant's assistance.

Mr. Housh referred to handouts distributed today that refer to specific details of Supervisor Ammiano's proposal. He said that the ordinance provisions mirror, to the extent possible, the existing disclosure requirements for lobbyists. Mr. Housh urged the Commission to adopt a policy statement supporting the fundamental requirements of registration and reporting by political campaign consultants and a ban on their lobbying those persons who employed them for a set period.

Jim Sutton raised an issue related to a complaint that he said had been filed. Jeff Sheehy of the Harvey Milk Club also made comments related to a complaint he said had been filed. Commissioner Gordon-Creed noted that the Commission's by-laws do not allow discussion of complaints at its meetings.

Mr. Sheehy expressed the Harvey Milk Club's support for the ordinance. He stated that a ban on political consultants lobbying the elected official (client) they worked for should apply not only during the consultant's employment but for the duration of the official's term. Mr. Sheehy stated that as someone who works on campaigns and will be directly affected by this legislation, he does not find the provisions onerous.

Commissioner Gordon-Creed then asked Commission members to discuss possible action on Draft 5, noting that it is not a final draft.

Commissioner Julian said it was his sense that the commissioners support the concepts that Mr. Housh and Mr. Sheehy discussed--i.e., registration and the ban on lobbying. However, two issues concern him: 1) the implications regarding possible abridgment of first amendment rights that Mr. Sutton had raised, and 2) the implications for the work load of Commission members and staff.

Executive Director Rubin stated that draft No. 5 meets the substantive issues related to staff work load. It was noted that other issues previously raised had been resolved in this draft.

Commissioner Melbostad suggested that the Commission adopt a motion supporting basic principles contained in the ordinance, rather than debating the specific language of the ordinance.

Commissioner Gordon-Creed offered the following motion for purposes of discussion:

> Be it resolved that the Ethics Commission forward to Supervisor Ammiano its sincere appreciation for his asking the Commission for its comment and consideration of the various drafts of the Regulation of Campaign Consultants Ordinance. The Commission has carefully considered drafts of the ordinance and has held meetings at which the public provided its comments on drafts of the ordinance. The Ethics Commission firmly supports the principle that the actions and potential influence of campaign consultants be made more open to public view. Be it further resolved that the Ethics Commission forward to the Board of Supervisors copies of its minutes and copies of individual commissioners' comments regarding drafts of the ordinance.

Commissioner Melbostad stated that he was troubled by an apparent effort by opponents of the ordinance to confuse the Commission as to who would meet the threshold for being a political consultant as defined by this legislation, and for being a lobbyist as defined by the lobbyist ordinance. He said the Commission needs to be clear about which political consultants and clients would be affected by this measure.

Commissioner Melbostad responded to some concerns that have been raised about provisions of the ordinance. First, he said, none of the persons who objected to the ordinance at the last meeting would meet the threshold for registration and reporting. Also, in Draft 5, the fee requirements are the same as in the lobbyist ordinance. He stated that small consultants will not meet the threshold to register, and that the proposed ordinance will not put persons out of business with burdensome fees.

Secondly, Commissioner Melbostad stated that contrary to the views of some ordinance opponents, the ordinance contains no presumption that political consultants are sleazy and unethical. He said this ordinance parallels other prohibitions currently placed on lobbying, specifically by former and current members of commissions. The ordinance's restrictions are very modest and narrowly drawn, he said, and should be in place to encourage policymakers to make decisions based on the merits of policy rather than on their business or personal relationships with the political consultant.

Commissioner Melbostad also noted that the threshold of $10,000 is 10 times the monetary threshold contained in the lobbyist ordinance. With respect to penalty amounts, the Commissioner stated that certain individuals of modest means do not derive much income from consultant activities, but others derive income of several hundred thousand dollars a year. For those persons, a $5,000 penalty is not excessive. Moreover, the Commissioner noted that the Ethics Commission does not impose fines on persons for violations that are not willful. He said that a significant sum like $5,000 is necessary to deter political consultants with high earnings from violating the law.

Mr. Housh stated that the fees and fines were modeled after the lobbyist ordinance so as not to be unnecessarily burdensome. He said that persons targeted for coverage by this ordinance are those who do a substantial amount of business and who are already required to file FPPC reports, etc. Adding another page would not be particularly onerous, he said.

Mr. Housh said that the list distributed today of clients of political consultants indicates persons who would meet the threshold, though there may be others who would also meet it. Persons required to comply would have to meet the $10,000 threshold, would have to have clients who were elected, and would have to lobby as well. He stated that many of the people on the list currently lobby the Board of Supervisors. The ordinance, if passed, would inform the public about their activities.

Deputy City Attorney Julie Moll noted that the ban on lobbying would apply only to those persons who qualify as campaign consultants and who qualify as lobbyists as well.

Commissioner Lee suggested raising the threshold to perhaps $40,000 instead of $10,000 for political consultants because of their private relationship with their clients. Mr. Housh disagreed with raising the threshold, noting that if it were raised even to $20,000, many persons who should be covered would be exempt from the ordinance.

Commissioner Lee stated that the Commission should convey its thanks to Supervisor Ammiano, as well as its concerns about the proposed ordinance, especially with regard to lowering the registration fees.

Commissioner Melbostad proposed that the Ethics Commission support requiring campaign consultants to register and report information regarding activities similar to those of lobbyists, and prohibit campaign consultants from lobbying their current and immediate past clients for the term of office for which they provided campaign consultant services.

A member of the public who identified herself as a representative of John Whitehurst stated that one of the documents distributed today incorrectly indicates that Supervisor Tom Hsieh is one of their clients. This is not the case, she said.

After some discussion, during which various concerns were raised and addressed, the following motion was approved unanimously:

96-7-8-40 (Gee/Lee) Moved, Seconded and Passed: Be it resolved that the Ethics Commission forward to Supervisor Ammiano its sincere appreciation for his asking the Ethics Commission for its input and consideration of various drafts of the Regulation of Campaign Consultants Ordinance. The Ethics Commission has considered various drafts of the ordinance and has held meetings, during which the public has provided the Ethics Commission with its comments or thoughts on drafts of the ordinance. Be it further resolved that the Ethics Commission firmly supports the principle that the actions and potential influence of campaign consultants be made more open to public view. Be it further resolved that the Ethics Commission forward to the Board of Supervisors minutes of its meetings in which the drafts of the Regulation of Campaign Consultants Ordinance were discussed and copies of individual commissioners' written comments and other comments received on drafts of the ordinance.

After further discussion, a second, related motion was approved unanimously:

96-7-8-41 (Melbostad/Julian) Moved, seconded and passed: That the Ethics Commission supports requiring campaign consultants to register and report information regarding their activities, similar to requirements for lobbyists as defined in the lobbyist ordinance. The Ethics Commission also supports prohibiting campaign consultants from lobbying 1) current clients regardless of whether the clients owe the consultants money, and 2) immediate past clients, if the consultants are owed money by such clients. The term "immediate past clients" refers to those clients who were elected to public office with the services of campaign consultants for the campaign immediately preceding the term the clients are currently serving.

Commissioner Gordon-Creed stated that the above motion will be forwarded with the minutes and other documents to the Board of Supervisors.

Mr. Sutton, representing the American Association of Political Consultants, stated that even the current draft of the ordinance still presents constitutional concerns. He reiterated that all information that would be required is already disclosed and available to the public. He stressed that a whole new set of registration and reporting requirements is not needed.

X. Discussion and Possible Action Re: Implementation of Campaign Finance Reform Ordinance Provisions Regarding Contributions by Certain Contractors

Ms. Rubin reported that Ginny Vida, the Commission's Investigator/Auditor, has conducted preliminary research on how the Commission can implement and enforce the Campaign Finance Reform Ordinance, which prohibits contractors from contributing to the campaigns of city elective officers during the period when negotiations for their contract are in process.

Ms. Vida reported that a representative of the Oakland City Attorney's Office confirmed that the City of Oakland has implemented a similar ordinance, and noted that Oakland's implementation involved responding to complaints filed rather than conducting audits. Ms. Vida also reported that she had discussed the contract negotiation process with representatives of San Francisco departments, including Purchasing, Human Resources, Human Rights and the Controller's Office. Purchasing has provided the Commission with a list, on disk, of all 27,000 contracts approved by the City for 1995. Contracts for amounts over $50,000 must be advertised in the newspaper, and contracts over $5,000 must be awarded to the lowest bidder. She advised that with the Commission's current staffing levels, it would be difficult to monitor the contract negotiation process and conduct audits. The most likely approach would be to educate contractors, elective officers, department heads and department staff responsible for negotiating contracts about the provisions of the new law, and respond to complaints as they are filed.

Deputy City Attorney Moll suggested that newspaper notices for contracts over $50,000 might contain a notice about the new ordinance. Larry Bush also suggested that when the Request for Proposal is sent out to prospective contractors, a notice could be included.

Commissioner Melbostad suggested that perhaps city contracts could be voided if the contractor violated the ordinance. Ms. Moll noted, however, that even if the Ethics Commission determined that an improper contribution had been made, the Commission does not have the authority to terminate the contract. The only penalty provided is that the contractor would have to pay a fine.

Larry Bush suggested that the Commission obtain a list of contracts submitted for approval with the Department of Human Rights and the Department of Human Resources, and post the list on the Web page. He also suggested that Ed Lee, Director of Human Rights, be asked to advise the Commission on implementation of the ordinance.

After a brief discussion, the Commission requested that staff conduct further research on this matter and present a written proposal for implementation at the August 12 meeting.

XI. Discussion and Possible Action Re: The conversion of unpaid accrued campaign expenditures into contributions

It was decided to hold this item over for the August 12 agenda.

XII. Discussion and Possible Action Re; Discounts/free inclusions on Slate Cards as contributions

It was decided to hold this item over for the August 12 agenda.

XIV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

Larry Bush announced that there is a bill before the Assembly regarding electronic filing of Statements of Economic Interests beginning in 1998. He suggested that the Commission might wish to endorse this bill and offer comment. He suggested that Kim Alexander of the California Voter Foundation be contacted for further information.

XV. Adjournment

The meeting was adjourned at 5:25 p.m.

Respectfully submitted,

Ginny Vida

Ginny Vida
Investigator/Auditor

Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY AUGUST 12, 1996, 3:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

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I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III Discussion and Possible Action Re: Minutes: Meetings of July 8, 1996

IV. Chairperson's Report
A. Coro Fellow
B. Performance Evaluation

V. Director's Report
A. Updates: Electronic filing, web site
B. Projects and Activities

VI. Discussion and Possible Action Re: Implementation of Campaign Finance Reform Ordinance provisions regarding contributions by certain contractors

VII. Discussion and Possible Action Re: The conversion of unpaid accrued campaign expenditures into contributions

VIII. Discussion and Possible Action Re: Discounts/free inclusions on Slate Cards as contributions

IX. Discussion and Possible Action Re: Lobbyist Manual (Update)

X. Agenda items for future meetings

XI. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XII. Closed Session Pursuant to Ralph Brown Act, Section 54957 and Sunshine Ordinance Section 67.11, Personnel (Performance Evaluation)

XIII. Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: Personnel (Performance Evaluation)

XV. Adjournment

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance contact the Sunshine Ordinance Task Force at 554-6075.

This location is wheelchair accessible. In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity, or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

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Approved 10/16/96

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MINUTES OF THE SAN FRANCISCO ETHICS COMMISSION MEETING

1390 Market Street Mezzanine Conference Room 227
August 12, 1996

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:02 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Joseph Julian, Commissioner; Paul H. Melbostad, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Ginny Vida, Investigator/Auditor; Julie Moll, Deputy City Attorney

OTHERS PRESENT: Anita Mayo, Pillsbury Madison & Sutro; Ashok Ramani, Pillsbury Madison & Sutro; and an unidentified member of the public

DOCUMENTS DISTRIBUTED:
Agenda for August 12, 1996 Ethics Commission Meeting
Executive Director's Report to the SF Ethics Commission, August 12, 1996
Draft Minutes of the July 8, 1996 Ethics Commission Meeting
Memorandum from Jane E. Rubin to the SF Ethics Commission Re:
Implementation of Sect. 16.510-2 of the Campaign Finance Reform Ordinance

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda.

There were no comments from the public.

III. Discussion and Possible Action Re: Minutes: Meeting of July 8, 1996

The minutes of the July 8, 1996 meeting were approved unanimously:

96-8-12-42 (Julian/Gordon-Creed) Moved, seconded and passed: That the minutes of the July 8, 1996 meeting be approved as drafted.

Commission Chair Virginia C. Gee requested that a copy of the approved minutes of the June 10, 1996 meeting be sent to her.

IV. Chairperson's Report

A. Commissioner Gee reported that she has arranged for a Coro Foundation fellow to work as an intern at the Ethics Commission for a 3 to 4 week period beginning in September, at no cost to the Commission. Executive Director Jane Rubin will serve as field faculty member for the fellow. Commissioner Gee, who previously participated as a Coro fellow, noted that the program provides public policy leadership training, with the cooperation of public and nonprofit agencies and the private sector in providing field work sites.

B. Commissioner Gee also advised that when Item XII is reached on today's agenda, the Commission will go into closed session re: performance evaluation.

V. Director's Report

Web Site Address. Executive Director Rubin reported that the Commission's page on the World Wide Web may be reached directly by adding: /ethics/ to the address previously announced. The complete address is now: http://www.ci.sf.ca.us/ethics/

Recent Filings. Ms. Rubin advised that the Commission received lobbyist filings due July 15, 1996, and issued a lobbyist report within 10 days. The Commission is now reviewing and analyzing the reports. The Commission also conducted the first semiannual filing for the period ending July 31, 1996, for candidates and committees, for the prior election and the forthcoming November election. Ms. Rubin and Investigator/Auditor Ginny Vida are currently auditing these statements, particularly for adherence to contribution and spending limits. Ms. Rubin noted that last Friday, August 9, was the deadline for candidates to file their documents, petitions and filing fees with the Department of Elections. The field of candidates for Board of Supervisors has been reduced from 40 to 28. An official list of candidates will be forwarded to Commission members when received.

Electronic Filing. Campaign finance data from 1995 and 1996 election results is now available on the Commission's web site. The electronically filed data for statements due July 31 is still being loaded, due to problems with some of the disks. This data should be accessible within the next few days.

Introduction of Ordinance. Ms. Rubin reported that on July 22 she attended a meeting of the Board of Supervisors, at which Supervisor Ammiano introduced the "Regulation of Campaign Consultants Ordinance." The Commission will be notified when the ordinance is assigned to a committee.

Ethics Conference. Ms. Rubin advised that she will attend the annual conference of the Council on Governmental Ethics Laws (COGEL) in Philadelphia in December, and will also make a presentation there on San Francisco's Campaign Finance Reform Ordinance.

Coro Fellow. Ms. Rubin explained that the Coro Foundation has requested that its fellow be assigned a well-defined project this fall for the public policy field work at the Commission. The Commission will present Coro with a list of desired skills and assignments available, and Coro will then assign the Commission a fellow. Most are graduate students. Ms. Rubin invited Commission members to contact her over the next few weeks with suggested projects. She noted some possibilities: a manual or brochure for department heads or commissioners; a document explaining the investigation process, or a research project regarding operations of other ethics agencies in this area. Ms. Rubin will obtain and forward materials on the Coro program to Commission members.

Ms. Rubin noted that Whistleblower/Educator Cheryl Bernstein was married yesterday and will be out of town for the next two weeks.

VI. Discussion and Possible Action Re: Implementation of Campaign Finance Reform Ordinance (CFRO) Provisions Regarding Contributions by Certain Contractors.

Ms. Rubin referred to her memorandum to Commission members mailed in advance of today's meeting, re: how the Commission might implement Section 16.510-2 of the CFRO, which prohibits contractors from contributing to campaigns of city elective officers and candidates for such offices during negotiations for contracts which require the approval of those elective officers or candidates. Ms. Rubin noted that based on research conducted by Ms. Vida on the city contracts process, she would advise that the most effective approach would be to educate elective officers, contractors, contract negotiation staff at city agencies, and interested community groups about contractors' obligations under the new law; and to respond to complaints as they are filed, rather than attempt to audit for violations during the contract negotiation process.

Commissioner Paul Melbostad urged that Commission staff perform some level of auditing of contractors prior to approval of their contracts. He asked that staff inquire about availability of lists of pending contracts that could be monitored for compliance, especially as relevant information becomes available electronically. He suggested that the Commission could impose fines on vendors with contracts pending with Human Rights or the Chief Administrative Officer and who are found to have violated the new law.

Commissioner Melbostad also suggested that lobbyist filings be reviewed for disclosure of contract applications and cross-checked against electronically-filed campaign contribution information contained in candidate statements. Ms. Rubin said some auditing of this kind might be possible in the future. However, she also noted that databases of contracts pending and databases of contributors are not connected; thus, there are no "search engines" that can be used for cross-checking. A particular candidate might have received contributions from hundreds of contributors. Reviewing every entity to determine whether it might be in negotiation for a city contract is far beyond the Commission's resources, she explained.

Commissioner Gee inquired as to whether there is a single clearinghouse for all city contracts. Ms. Rubin advised that no single clearinghouse exists.

Commissioner Gordon-Creed suggested that the Commission could obtain from the City Attorney's office the lists of contracts awarded, and then review which candidates accepted contributions and see how they match up. The Commission could, in addition to levying fines, publish a list of violators. Commissioner Gordon-Creed noted that review of awarded contracts would be difficult since at times, the City may award in excess of 50 contracts per day.

Ms. Rubin also noted that not every negotiation ends in a successful contract. There may be violators who contribute during the negotiation period who would not be on a list of contracts awarded. She again stressed that the Commission's focus should be on educating those involved in the process.

Commissioner Gee inquired as to how the negotiation period is defined if there is an extension of the contract. Deputy City Attorney Julie Moll responded that it may not be easy to determine.

Commissioner Gee suggested that information on extension of contracts be included in educational presentations such as the Mayor's orientation for department heads regarding ethics issues. She also requested that the informational document appended to Ms. Rubin's memorandum to the commisisoners be included in such presentations. It was agreed that these suggestions would be pursued.

Anita Mayo asked for clarification of the definition of "negotiation period" in the informational document. After some discussion the following motion was passed unanimously:

96-8-12-43 (Melbostad/Gordon-Creed) Moved, seconded and passed: That the Commission staff's proposed notice regarding contractors' obligations be modified to clarify that inquiries for information about a particular contract, or a request for documents relating to a Request for Proposal, and requests to be placed on a mailing list, do not constitute negotiations; that such notice, as modified, be adopted; and that staff recommendations for educating potential contractors and others about Section 16.510-2 of the Campaign Finance Reform Ordinance be adopted and implemented.

Commissioner Melbostad noted that it is also important for the Commission to make the public aware that it will pursue obvious violations. He asked that staff make an effort to identify information that is available regarding City contracts that could easily be cross-checked.

VII. Discussion and Possible Action Re: The Conversion of Unpaid Accrued Campaign Expenditures into Contributions

Commissioner Melbostad proposed that unpaid campaign debts should be treated as campaign contributions after a certain period such as 90 days. He noted that the San Francisco Administrative Code states that contributions include "loans of any kind or nature," and that the

definition of campaign expenditures specifically includes non-monetary contributions. He said this would seem to apply to a situation where a vendor provided a candidate with goods or services valued at more than $500 and was never paid. Such unpaid vendor might then be in a position to exert undue influence over an elected candidate.

Commissioner Melbostad said that he favored adoption of an alternative presented in a memorandum prepared by the City Attorney's Office--namely, the creation of a rebuttable presumption that campaign debts that remain unpaid after a certain period of time be considered a contribution.

Deputy City Attorney Julie Moll suggested that the presumption could be rebutted based on the criteria included in the guidelines of the Federal Election Commission (FEC).

Ms. Moll said that since the above proposal involves a substantial change in the law, it may be necessary to implement such a proposal through an ordinance rather than a rule or regulation. She also suggested that the Commission or its staff might review and approve debt settlement plans in connection with a rebuttable presumption proposal. Under this approach, both the vendor and the candidate could be penalized for violations of the contribution limit.

Commissioner Gordon-Creed urged that the candidate, not the vendor, be held responsible for violations.

Ms. Moll suggested that the Commission might also want to require campaigns to report additional information about their debts, such as the date the debt was incurred.

Commissioner Melbostad asked for further clarification regarding why the proposal under consideration could not be effected by rule or regulation.

After further discussion, the following motion was approved unanimously:

96-8-12-44 (Melbostad/Gordon-Creed) Moved, Seconded and Passed: That the Commission direct the City Attorney's Office to propose language for an ordinance, or rule or regulation, to provide for a policy converting unpaid accrued expenses into contributions after a specified period. This policy will include penalties for violating contribution limits. The Commission requests that the City Attorney's Office recommend the specified period and whether the penalties should apply to the campaign, the vendor or both.

Commissioner Melbostad asked staff to advise the Commission on what impact this proposal, if enacted, would have on staff work load.

It was agreed that this matter will be calendared for the Commission's October 1996 meeting to allow time for the City Attorney's Office to prepare the proposed language referred to in Motion 96-8-12-44. If the draft proposal is ready in time for the September meeting, the matter will be calendared for that meeting.

VIII. Discussion and Possible Action Re: Discounts/free inclusions on Slate Cards as Contributions.

Commissioner Melbostad expressed his view that discounted or free inclusions on Slate Mailer Cards should be counted as contributions.

Ms. Moll noted that there are two provisions in the Political Reform Act applicable to the matter of expenditures by slate mailer organizations. One provision explains that expenditures made by such organizations are not counted as contributions or expenditures under the Political Reform Act. At the same time, the Act's definition of the term contribution suggests that certain expenditures by slate mailer organizations can be considered contributions in certain circumstances. Ms. Moll reported that if a slate mailer gives a discount or free inclusion to a candidate, and if the decision to do so was made outside the course of normal business, one could argue that the discount or free inclusion is a contribution. A "normal business" decision could involve giving free inclusion to a popular candidate to make the slate card more marketable to other candidates. The FPPC considered this issue informally but has not issued formal advice which harmonizes these two provisions of state law.

Commissioner Melbostad stated that it is not right that the average voter can contribute only $500 of influence to a campaign, while a slate mailer business has no such limits and thus may exert undue influence.

Anita Mayo stated that independent expenditures are protected by the first amendment as an expression of free speech.

Ms. Moll offered to provide to the Commission copies of the two sections of state law at issue here. She advised that the FPPC's reluctance to treat slate mailer discounts as contributions or expenditures illustrates the problems the City may encounter if it tries to regulate this at the local level.

Commissioner Gordon-Creed urged that the Commission not attempt such regulation until and unless the matter is resolved by the FPPC.

The Commission agreed to continue this discussion as a calendar item for the September meeting.

Commissioner Melbostad noted that the Commission has not precluded the idea that someone may file a complaint with the FPPC alleging that this type of expenditure constitutes a violation of contribution limits under current law.

IX. Discussion and Possible Action Re: Lobbyist Manual (Update)

Ms. Rubin advised that discussion of the Lobbyist Manual has been rescheduled for the September meeting when Cheryl Bernstein will be present. Commissioner Julian will coordinate with Ms. Bernstein on this agenda item.

Ms. Rubin reported that the July 15 lobbyist filing was the first to occur since the new manual and forms were issued. Ms. Bernstein reviewed the filed forms to extract material for the quarterly lobbyist report. The forms will be further reviewed for missing or incomplete information and will also be analyzed to identify problem areas. This matter will be more fully addressed at the September meeting. It was also agreed that Anita Mayo's letter of May 24, 1996, regarding the Lobbying Manual will be included on the September agenda.

X. Agenda Items for Future Meetings

Commissioner Gee urged that the Commission schedule a review of investigation and hearing procedures. Commissioner Melbostad and Ms. Moll will coordinate preparation for this discussion. No agenda date was set for this item.

Commissioner Melbostad asked that the Commission establish a policy regarding waiving or reducing late fee penalties when the violation is unintentional or requirements were unknown to the filer. He said that some treasurers have advised him that their organizations cannot close their committees because they cannot afford to pay the fines assessed. It was agreed that this matter would be placed on the September agenda.

XI. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

Commissioner Melbostad paid tribute to T.J. Anthony, a prominent San Franciscan who died recently. Mr. Anthony was the author of the new City Charter and various ethics legislation. Prior to his death Mr. Anthony asked Commissioner Melbostad to convey his appreciation to the Ethics Commission for its work on the Regulations of Campaign Consultants Ordinance.

XII. Closed Session Pursuant to Ralph Brown Act, Section 54957 and Sunshine Ordinance Section 67.11, Personnel (Performance Evaluation)

This portion of the meeting was conducted in closed session.

XIII. Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14

The following motion was passed unanimously:

96-8-12-45 Moved, Seconded and Passed: The Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: Personnel (Performance Evaluation).

XV. Adjournment

The meeting was adjourned at 5:15 p.m.

Respectfully submitted,

_____
Ginny Vida
Investigator/Auditor

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Approved 10/16/96

MINUTES OF THE SAN FRANCISCO ETHICS COMMISSION MEETING

1390 Market Street
Mezzanine Conference Room 227
September 9, 1996

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I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:05 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Joseph Julian, Commissioner; Paul H. Melbostad, Commissioner

Commission Chair Virginia C. Gee noted that Commissioner Geoffrey Gordon-Creed was excused from attending the meeting because he had just gotten married and was on his honeymoon.

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Ginny Vida, Investigator/Auditor; Cheryl Bernstein, Whistleblower/Educator

OTHERS PRESENT: Anita Mayo, Pillsbury Madison & Sutro; Lawanna Preston, SEIU Local 790 Staff Manager; James Chaffee, Sunshine Ordinance Task Force

DOCUMENTS DISTRIBUTED;
9/9/96 Ethics Commission Meeting Agenda
Secretary of State Policy on Fines and Waivers
5/24/96 Letter from Anita Mayo
9/3/96 Memorandum from Ms. Bernstein on Lobbyist Manual
9/5/96 Memorandum from Ms. Bernstein on Lobbyist Manual
Notice of Contractors' Obligations under the CFRO
Draft of the Minutes from the 8/12/96 Ethics Commission Meeting
9/9/96 Executive Director's Report
Job Announcement

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda
Lawanna Preston, SEIU Local 790 Staff Manager, read a formal statement requesting that the Commission adopt a timetable for implementing each of its Charter mandates. Commissioner Chair Virginia C. Gee responded that the Commission can not address issues raised during the public comment period. Under the Brown Act and the Sunshine Ordinance, the only issues the Commission may address at the meeting are scheduled agenda items.

III. Discussion and Possible Action Re: Minutes: Meetings of August 12, 1996
Commissioner Gee requested that two additions be made to the minutes.

It was determined that the August 12th minutes had never been mailed to the Commissioners. It was agreed to hold the correction of the minutes until the October 15th Commission meeting.

IV. Chairperson's Report
Introduction of Coro Fellow
Commissioner Gee welcomed Rosanna Moore, Coro Fellow in Public Affairs. Ms. Moore stated that she was very interested in learning about government, and hoped her experience as a Coro Fellow would help her to determine whether to pursue graduate school in public policy or law.

V. Director's Report
A. Updates: Electronic filing, web site
B. Projects and Activities

Executive Director Jane E. Rubin reported that permanent storage space for Commission records has been found. The Commission will be storing records with the company Filesafe. She noted that the storage charges are very reasonable.

She reported that the campaign finance database on the World Wide Web has been unavailable recently due to SDR changing providers to the Internet. A message informs visitors to the Web page that the database will be available within a few days.

Ms. Rubin reported that the individual who was going to fill the temporary administrative assistant position at the Commission has taken a full-time job. The Commission continues to search for an appropriate individual to fill the opening.

She reported that Rosanna Moore, Coro Fellow, will be developing a handbook which summarizes the laws the Commission enforces and the services it provides.

Ms. Rubin reported that notification to candidates of technical deficiencies and/or incomplete information in their filings is in progress. If the audits reveal that excess contributions have been received, the documentation will be forwarded to the District Attorney and City Attorney for appropriate action.

She reported that the Government Efficiency and Labor Committee hearing on the Honest Election Ordinance was re-scheduled. She will keep the Commission apprised when the new hearing date is announced.

Ms. Rubin reported that the Commission is sponsoring a seminar on electronic filing requirements for candidates, committees and treasurers. Approximately 25 people have made reservations to attend.

She also reported that the requirement of City officers to seek approval from the Mayor before traveling outside the City and County of San Francisco has been eliminated. The Commission by-laws will be amended to reflect this change. She noted that the Registrar of Voters has a new department name: Department of Elections.

Commissioner Melbostad asked if documents required to be filed at the Commission could be filed at the Department of Elections or in the reverse. Ms. Rubin responded that the Commission and the Department of Elections each have separate filing officer responsibilities. She stated that giving filers the option to file at either department would cause significant administrative difficulties. She noted that both departments have tried to be as helpful as possible when an individual attempts to file at the wrong location.

VI. Discussion and Possible Action Re: Rescheduling of December Regular Meeting

Ms. Rubin stated that the Commission needed to re-schedule both the October and the December regular Commission meetings. The October 14th meeting needs to be re-scheduled because it falls on the holiday Columbus Day. The December 9th meeting needs to be re-scheduled because it conflicts with a COGEL conference which Ms. Rubin will be attending in Philadelphia, Pennsylvania. Also, Commissioner Melbostad will be out of town on that date. Ms. Rubin suggested the Commission move the October 14th meeting to the following day. She suggested the December meeting be re-scheduled for December 16th. It was agreed to re-schedule the meetings to October 15th and December 16th respectively.

VII. Discussion and Possible Action Re: Lobbyist Manual and Forms

Commissioner Gee noted that Commissioner Julian would be chairing the discussion on the revision of the Lobbyist Manual and Forms.

Commissioner Julian advised that the discussion on revision of the Manual and Forms would utilize the September 3rd and 5th memorandum from Whistleblower/Educator Cheryl Bernstein and the May 24th letter from Pillsbury, Madison & Sutro attorney Anita Mayo.

Commissioner Julian asked the Commission to consider revising a motion passed on May 29, 1996. The motion involved the disclosure of gift tickets/admissions in lobbyist quarterly reports. The motion linked the disclosure of gift tickets/admissions to passage of the threshold for filing an activity expense report. The suggested revision was to require lobbyist filers to disclose <u>all</u> gift tickets/admissions, regardless of the threshold for filing an activity expense report. Ms. Bernstein explained that this revision, if passed, would be in the public interest because the purpose behind the disclosure requirement is not in the monetary value of the ticket, but in the non-monetary value conferred upon the beneficiary. This reflects the section of the motion which states that gift tickets/admissions have no value for purposes of the lobbying ordinance.

Anita Mayo of Pillsbury, Madison & Sutro requested an amendment to the suggested revision: insertion of the words "and local" to make it clear that the tickets/admissions have no value under both state and local law for purposes of the Lobbyist Ordinance.

96-9-9-46 (Gee/Melbostad) Moved, Seconded and Passed: That effective July 1, 1996, the Lobbyist Manual be amended to provide that lobbyists be required to disclose gift admissions and tickets to political fund-raisers and events sponsored by 501(c)(3) organizations, including the name and date of event, and name of the official benefited; and in addition, that the Lobbyist Manual reporting form include language noting that under state and local law, gift admissions and tickets to such events are deemed to have no value for purposes of the lobbying ordinance.

Commissioner Julian directed the attention of the Commission to the suggested manual text entitled "How Do I Report Gift Tickets and/or Admissions?" and the suggested addition to *Form 2*. Ms. Bernstein explained that these suggested revisions were drafted to implement the motion passed requiring disclosure of gift tickets/admissions.

96-9-9-47 (Melbostad/Gee) Moved, Seconded and Passed: That the Lobbyist Manual and Forms be revised to include the suggested manual text on gift tickets/admissions and the suggested addition to *Form 2*.

Commissioner Julian directed the attention of the Commission to the suggested revision to *Form 2* regarding disclosure of payments by business and grassroots lobbyists. Ms. Bernstein explained that the forms were revised to allow filers to report payments without trying to fit them into the three categories previously required (support/assistance; direct communications; solicit/urging). Revision of the forms would allow filers to simply report each payment, including the identity of the recipient of the payment and the purpose of the payment.

Commissioner Melbostad suggested that the language "purpose of payment" on the form needed to be more specific. He stated that the Commission should revise the form by including a parenthetical explanation which clarifies the degree of specificity the Commission is seeking. Ms. Rubin suggested the language track the Ordinance: "specific local legislative or administrative action".

96-9-9-48 (Melbostad/Gee) Moved, Seconded and Passed: That the Lobbyist Manual and Forms be revised to include the suggested revisions to *Form 2*.

Commissioner Julian directed the attention of the Commission to the suggested revisions to *Form 1A*. Ms. Bernstein explained that these revisions were designed to address common mistakes made by filers on the new lobbyist forms filed July 15, 1996. The first section on the form was revised to clarify that the request is for a description of the filer itself. The second section was revised to separate the area in which the names of the lobbyists are identified from the area in which the officers and partners are identified.

96-9-9-49 (Gee/Julian) Moved, Seconded and Passed: That the Lobbyist Manual and Forms be revised to include the suggested revisions to *Form 1*.

Commissioner Julian directed the attention of the Commission to Anita Mayo's May 24, 1996 letter to the Commission. Ms. Mayo noted that the carbon copies and blind copies to her letter should not be part of the public record.

Ms. Mayo stated that the original Manual contained language in the sections on business and organization lobbyists and grassroots lobbyists explaining that "entities" may include business entities, organizations, associations, nonprofit organizations, and unions. She requested that the Commission re-insert this language into the revised Manual so that the applicability of the Ordinance to such entities is clear.

96-9-9-50 (Gee/Melbostad) Moved, Seconded and Passed: That the Lobbyist Manual and Forms be revised to include the explanatory language on "entities".

Ms. Mayo stated that section (3) on page 12 of the Manual contains an example in which contract lobbyists are required to disclose payments received for producing and arranging testimony at a Board of Supervisors hearing. Ms. Mayo stated that she believes public testimony, including the production and arrangement of such testimony at a Board of Supervisors hearing, is exempt from disclosure. She cited San Fran. Admin. Code §16.523(b) which exempts from the definition of "to communicate" appearing as a witness or providing written statements which become a part of the record of a public hearing, so long as the lobbyist identifies the client(s) on whose behalf the lobbyist is speaking or writing.

Deputy City Attorney Moll agreed that the Ordinance does not require disclosure of payments received in connection with public testimony. Ms. Moll explained that this exemption was an intentional departure from state law, which does not carve out a similar exemption.

Ms. Bernstein suggested that the Commission delete that particular portion of the example from the Manual. She stated that the Commission needed to take action on this issue at the meeting because the Manual needed to be sent out quickly in order for filers to have sufficient time to prepare for the October deadline.

96-9-9-51 (Gee/Julian) Moved, Seconded and Passed: That the language regarding public testimony be deleted from the example in the Lobbyist Manual and that staff draft a section on public testimony for the frequently asked questions portion of the manual to be reviewed by the Commission at the October meeting.

Ms. Mayo pointed out that Section (4) on page 12 of the Manual incorrectly uses "Governor" in an example. She suggested that the Commission correct the example by using a San Francisco officer.

96-9-9-52 (Gee/Melbostad) Moved, Seconded and Passed: That the language in the example in the Manual be modified from "Governor" to "Mayor".

Ms. Mayo requested clarification from the Commission regarding whether *Forms 1A, 1B, or 1C* must be submitted when there has been no reportable activity.

Ms. Bernstein stated that it is not burdensome for the filer to fill out *Forms 1A, 1B, or 1C*. She added that it is in the public's interest to have filers submit the forms each quarter regardless of reportable activity because the forms detail the basic information about the filer. She recommended that the Manual be amended to include clarifying language on the requirement of filing *Forms 1A, 1B, or 1C* every quarter.

96-9-9-53 (Gee/Melbostad) Moved, Seconded and Passed: That the Manual be amended to include clarifying language on the requirement of filing *Forms 1A, 1B, or 1C* every quarter.

Ms. Mayo stated that she wanted to respond to item 10 of the document "San Francisco Lobbyist Instructions, Proposals and Additions from Larry Bush" submitted at the May 6 Commission meeting. The item contained an allegation about the reports filed by Committee on JOBS. Ms. Mayo stated that her client does its best to comply with the Ordinance.

VIII. Discussion and Possible Action Re: Discounts/Free Inclusions on Slate Cards as Contributions

Commissioner Melbostad asked whether free inclusion on a slate card is a contribution subject to the $500 limit or is a cost incurred by the slate mailer organization and not treated as a contribution.

Ms. Moll replied that this depends on the interpretation of two possibly conflicting provisions of state law. She reported that the FPPC has informally advised that it is theoretically possible that expenses incurred by slate mailer committees could be construed as contributions, but only under very limited circumstances, if at all.

Commissioner Melbostad stated that an individual could file a complaint regarding the issue of whether free inclusion on a slate card is a contribution. The Commission would then be forced to address the issue. Commissioner Melbostad stated that there were two separate issues involved: (1) whether slate mailer expenses have to be reported and (2) whether it's allowable to conduct free inclusions while charging others to be on the same slate card mailer.

After some discussion, it was determined that the Commission was not in a position to take action on this issue.

IX. Discussion and Possible Action Re: Imposition of late filing fines

Commissioner Melbostad requested that the Commission discuss the concept of an amnesty program for political committees who need to terminate but are unable to pay their fines. Ms. Rubin responded that the issue is not an inability to pay fines, because committees can terminate despite owing money. The issue is that committees may avoid terminating in an effort to avoid drawing the Commission's attention to their existence.

Ms. Moll commented that the Political Reform Act provides for two types of fines: (1) mandatory and (2) discretionary. The authority of local filing officers to waive mandatory fines needs to be researched. Ms. Moll noted that the reason, purging the Commission's rolls of hundreds of committees, is compelling.

Commissioner Melbostad asked which governmental entity has the duty to collect fines. Ms. Moll replied that the filing officer has the duty. Commissioner Melbostad inquired if the Commission had to request the City Attorney to file suit against the committees. Ms. Moll responded that once the Commission imposes the fines, the Commission staff can go to small claims court to enforce the fines.

Commissioner Melbostad inquired about the disposition of funds generated from small claims court. Ms. Rubin replied that the Commission is not a revenue-producing agency. Therefore the money would go into the general fund. She noted that in some cases it would not be logical for the Commission to go to small claims court because the court filing fee could outweigh the fine.

Commissioner Melbostad stated that individuals have approached him who have mistakenly violated the filing laws in good faith. Ms. Mayo stated that at the federal level, the agency has had to prioritize complaints. She noted that the FPPC may be following the same method. She suggested that the Commission may want to prioritize by determining which violations are egregious and/or intentional. Ms. Rubin stated that the Commission did not have the leeway to make those types of judgments. Commissioner Melbostad stated that the City Attorney and District Attorney prioritize which matters to take action on, such as enforcement of illegal in-law units.

After further discussion, Commissioner Melbostad requested Commission staff to make recommendations on this issue. Commissioner Gee stated that the recommendations would be a progress report item on the November meeting agenda.

X. Discussion and Possible Action Re: Scheduling of continued review/revision of Investigation and Enforcement Procedures

Commissioner Gee noted that Commissioner Gordon-Creed will be working with Commissioner Melbostad and Ms. Moll on revising the investigation and enforcement procedures. Commissioner Melbostad stated that it was important to point out that no complaints had been overlooked due to the delay in reviewing and revising the procedures.

He noted that he had marked up the regulations extensively in preparation for drafting revisions and had had useful discussions with District Attorney Hallinan and his staff on this issue. Ms. Moll noted that she had been researching the process utilized by other municipal ethics commissions and by the US Senate Ethics Committee.

It was agreed that Ms. Moll and Commissioner Melbostad and Commissioner Gordon-Creed would set a date subsequent to this meeting to create a draft. Commissioner Gee requested that a progress report be made at a future Commission meeting.

XI. Agenda items for future meetings

Commissioner Gee stated that the Commission would address changes to Article III of the Commission by-laws at the October meeting.

Commissioner Julian asked if the Commission could address the statement made by Lawanna Preston, SEIU Local 790 Staff Manager. Ms. Moll responded that the only action the Commission could take is to place the issue on the agenda for discussion at the October meeting. Commissioner Julian stated that the Commission needed to respond to this type of statement in a timely fashion. Commissioner Melbostad stated that after further research, the Commission could determine that a special meeting is necessary. Ms. Rubin replied that the statement contained certain misapprehensions. She noted that the call for more frequent Commission meetings would not properly address the concerns voiced about the complaint process. She suggested that staff draft a written response for the Commissioners to work from at the next Commission meeting.

Commissioner Melbostad stated that the Commission needed to act more quickly than that. Ms. Rubin responded that her suggestion for a written response was in addition to a more immediate response. Commissioner Gee stated that the Commission would act by sending out a timely interim response and writing a draft to work from at the October meeting. It was decided that Commissioner Melbostad would be the point person for this project.

XII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

There was no public comment.

XIII. Adjournment

The meeting was adjourned at 5:16 p.m.

Respectfully submitted,

_____
Cheryl Bernstein
Whistleblower/Educator

ETHICS COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

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CHAIRPERSON

GEOFFREY
GORDON-CREED
ICE-CHAIRPERSON

ROBERT D.
DOCKENDORFF
COMMISSIONER

JOSEPH JULIAN
COMMISSIONER

L H. MELBOSTAD
COMMISSIONER

JANE E. RUBIN
EXEC. DIRECTOR

SAN FRANCISCO ETHICS COMMISSION NOTICE OF BYLAWS AMENDMENT

AT THE SCHEDULED REGULAR MEETING, TO BE HELD ON TUESDAY, OCTOBER 15, 1996 AT 3:00 P.M. AT 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM, THE ETHICS COMMISSION PROPOSES TO DISCUSS AND TAKE POSSIBLE ACTION ON THE FOLLOWING AMENDMENT TO ITS BYLAWS:

To delete Article IV, Section 2 "Absence from the State" which required Commissioners to seek prior approval from the Mayor and the Board of Supervisors for out-of-state travel. This section has been made obsolete by the elimination of this requirement in the revised City Charter, effective July 1, 1996.

1390 Market Street, Suite 701 • San Francisco, CA 94102-5302 • Phone (415) 554-9510 • Fax (415) 703-0121
E-Mail address: ethics_commission@ci.sf.ca.us Web site: http://www.ci.sf.ca.us/ethics/

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APPROVED 11/12/96

MINUTES OF THE SAN FRANCISCO ETHICS COMMISSION MEETING

1390 Market Street
Mezzanine Conference Room 227
October 16, 1996

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I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:05 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Robert Dockendorff, Commissioner; Joseph Julian, Commissioner; Paul H. Melbostad, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Ginny Vida, Investigator/Auditor; Cheryl Bernstein, Whistleblower/Educator; Deputy City Attorney Julie Moll, Office of the City Attorney

OTHERS PRESENT: Anita Mayo, Pillsbury Madison & Sutro

DOCUMENTS DISTRIBUTED:
San Francisco Ethics Commission Agenda
Executive Director's Report to the San Francisco Ethics Commission
Suggested Revision to the Lobbyist Manual
Commissioner Biographies
Notice of Bylaws Amendment
Section 10 of Bylaws
Memo from Mayor Willie L. Brown Jr.
Summary of Complaints Received as of 10/1/96
September 9, 1996 Minutes
August 12, 1996 Minutes
"The San Francisco Ethics Commission" Brochure

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

There were no comments from the public.

III. Discussion and Possible Action Re: Minutes: Meetings of August 12 and September 9, 1996

96-10-17-54 (Melbostad/Julian) Moved, Seconded and Passed: That the minutes of August 12, 1996 be approved as submitted.

96-10-17-55 (Melbostad/Julian) Moved, Seconded and Passed: That the minutes of September 9, 1996 be approved as submitted. Commissioner Gordon-Creed abstained because he was not present for that meeting. Commissioner Dockendorff abstained because he had not yet been appointed at that time.

IV. Chairperson's Report
Introduction of Commissioner Robert Dockendorff

Commissioner Gee welcomed Commissioner Robert Dockendorff to the Commission. Commissioner Dockendorff gave a brief overview of his career.

Commissioner Gee asked staff to make the tape of the February 24, 1996 "Overview of the Laws and Rules for City Commissioners" orientation session available to Commissioner Dockendorff. She also requested that staff send her an inventory list of the materials in the Commission packet given to new commissioners.

Commissioner Gee reported that she had presented Commission staff with a videotape of the September 26, 1996, Board of Supervisors Government Efficiency and Labor Committee hearing on the Honest Election Ordinance. The tape is available to the public by contacting Commission staff.

V. Director's Report
A. Updates: Electronic filing, web site
B. Projects and Activities

Executive Director Jane Rubin reported that she recently appeared before a State Assembly Committee regarding electronic filing. She also reported that she has been working with the staff of both SDR and ISD to develop access to electronic filing on the Internet. The two staff members of ISD, Michael Duffner and Lynn Barron, originally working on the project are no longer there. A meeting is scheduled for October 17 to meet the new staff members assigned to the project. Ms. Rubin noted that no moneys have been allocated thus far to ISD.

Ms. Rubin reported that staff has been very busy with the recent campaign finance disclosure filings. Staff worked hard to provide SDR with electronic data in formats that could be converted by SDR in order to post the information on the Internet in a timely fashion. SDR has yet to post the information in a format that is useful to Internet users.

Ms. Rubin reported that Coro Fellow Rosanna Moore has completed her project with the Commission. She produced an excellent working draft of a manual which she hopes will ultimately be distributed to the public. The draft details the work and functions of the Commission. Ms. Rubin noted that the Coro program has asked her to draft and participate in an ethics exercise during next year's selection process of Coro Fellows.

Ms. Rubin reported that, during the recent campaign filing deadline, staff worked closely with the Department of Elections to increase the ease with which the public can access documents filed with the two departments. Staff of both departments created duplicates of high-demand documents which are filed at only one department so that the public would not need to go back and forth between the two locations to view the information. She also noted that the temporary staffer has been particularly helpful in assisting with the administrative tasks of the Commission.

Commissioner Gordon-Creed asked if the Commission has adequate storage space. Ms. Rubin responded that the Commission has sufficient space because older files were placed in storage. These files can be retrieved for a nominal fee within 48 hours.

Commissioner Gee requested that Ms. Rubin update the Commission on the status of the Regulation of Campaign Consultants ("Honest Election Ordinance"). Ms. Rubin responded that the ordinance passed by a 9-1 vote (one absentee) with amendments yesterday. A second reading will take place next week. Commissioner Gee requested that she keep the Commission informed of any further developments on the ordinance. Commissioner Gee noted that she has a tape of the subcommittee discussions on the ordinance. Commissioner Gordon-Creed requested that future discussion of the ordinance include attention to the impact of the ordinance on the Commission. Deputy City Attorney Moll stated that none of the amendments made yesterday affect the Commission.

Commissioner Gee stated that the Commission made a report at the Board of Supervisors' meeting yesterday. Commissioner Dockendorff asked for general information about the legislative process with regard to the ordinance. Ms. Moll replied that a second reading of the ordinance would take place next week. If substantive amendments are made, an additional reading would be required. If no substantive amendments are made, the ordinance will go to the mayor for his signature or a veto. Commissioner Gee requested that staff send a flow chart of the legislative process to each Commissioner. Whistleblower/Educator Cheryl Bernstein noted that the Clerk of the Board of Supervisors, John Taylor, holds a seminar every other month on this topic. Commissioner Gee asked that staff keep the Commission members informed of these seminars.

VI. Discussion and Possible Action Re: Rescheduling of December Regular Meeting

It was agreed to re-schedule the December meeting to December 18th at 3:00 p.m.

VII. Discussion and Possible Action Re: Bylaws amendment: Deletion of Out-of-State Travel Notification Requirement

Commissioner Gee stated that this amendment is in regard to out of state travel by City officials. Ms. Rubin noted that the old Charter required City officials to seek permission of the Mayor and the Board of Supervisors before traveling out of state. The Commission referred to this requirement in its bylaws, Article 3 Section 10 "Absence from the State." The section has been made obsolete by the elimination of this requirement in the revised

City Charter, effective July 1, 1996. Subsequent to the Commission's posting the agenda item proposing the deletion of this section, Mayor Willie L. Brown Jr. sent out a memoranda stating that although City officials no longer need to seek permission, officials should keep him informed of their travel. Ms. Rubin noted that the Commission cannot include reference to the Mayor's notification request in today's meeting, due to agenda and notice laws. The Commission can only act to delete Section 10 today. Commissioner Dockendorff asked if it was necessary to put this language into the bylaws at all. Ms. Rubin responded that it was for informational purposes. Commissioner Gee suggested that the Commission delete Section 10. She stated that it was not necessary to amend the bylaws next month in order to include the mayoral notification section.

96-10-17-56 (Julian/Dockendorff) Moved, Seconded and Passed: That Article 3 Section 10 "Absence from the State" be deleted from the Commission bylaws.

VIII. Discussion and Possible Action Re: Representation of the Ethics Commission

Commissioner Gee stated that this discussion should serve as a review of the mission and the code of the Commission. The Commission must honor what it has committed itself to and follow the procedures regarding representation of the Commission. The Commission brochure was distributed. Commissioner Gee reviewed the mission and the code of ethics in this document.

Commissioner Gordon-Creed stated that this agenda item stemmed from the progress of the Honest Election Ordinance through hearings at the Board of Supervisors. Commissioner Gordon-Creed noted that the Honest Election Ordinance had come to the Commission for its review and comment from Supervisor Ammiano's office. During discussions at the Commission hearings, members of the Commission agreed and disagreed about the constitutionality, wording and effect of various portions of the ordinance. Based on these discussions and public comment, the Commission ultimately passed motions that stated that the Commission supported the principle behind the ordinance. The minutes of the relevant Commission meetings and memorandum from individual Commissioners regarding the ordinance were forwarded to the Board of Supervisors so the Board could review the comments and thoughts of the commissioners relating to the ordinance.

Commissioner Gordon-Creed stated that based on reports in the media, and comments made by Supervisors at the Board's Government Efficiency and Labor Committee meeting on the ordinance and yesterday's Board of Supervisors meeting, it is clear that certain Supervisors are under the impression that Commissioner Melbostad who spoke in support of the Honest Election Ordinance at the Board meetings was representing the opinions of the Ethics Commission as a whole, rather than his personal opinion as an individual. Commissioner Gordon-Creed stated that he felt it was important that Ethics commissioners make strenuous efforts to clarify at public hearings or to the media whether they are speaking as an individual or on behalf of the Commission.

Commissioner Melbostad responded that each time he has been asked about the Commission's opinion, he has referred to the July 1996 letter signed by Commissioner Gee. He noted that the public exposure in the media and at the meetings will serve the Commission well in next year's budget process.

Commissioner Gee stated that the focus is to maintain a unified voice as the Commission. She noted that she had placed this item on the agenda as a refresher for the Commission in its entirety. She noted that the Commission must be extra careful because attaching the word "ethics" increases the stature of an ordinance, such as the Honest Election Ordinance. She stated that commissioners have a right to speak as individuals, but that one must be very mindful to make the distinction as clearly as possible when doing so, and that the bylaws indicate that the Chairperson or his/her designee represents the Commission with the media.

After some discussion, it was agreed to table further discussion on this matter and to make it an agenda item for the November meeting.

IX. Discussion and Possible Action Re: Lobbyist Manual and Forms re: Public Testimony

Commissioner Gee asked Commissioner Julian to lead the discussion. Commissioner Julian drew the attention of the Commission to the document entitled "Must Filers Disclose Payments Received for or in Connection with Public Testimony?"

Ms. Bernstein stated that this suggested revision to the Lobbyist Manual had been drafted in response to Commissioner Melbostad's request for language clarifying the disclosure of public testimony under the Lobbyist Ordinance.

Anita Mayo of Pillsbury, Madison & Sutro suggested that the words "or the provision of written statements which become a part of the record of a public hearing" be inserted after the word "hearing." She also suggested that the words "or writes" be inserted after the word "testifies."

96-10-17-57 (Julian/Gordon-Creed) Moved, Seconded and Passed: That the suggested language regarding public testimony be inserted into the Lobbyist Manual.

X. Discussion and Possible Action Re: Scheduling of continued review/revision of Investigation and Enforcement Procedures: Update

Commissioner Gee stated that Commissioner Melbostad and Commissioner Gordon-Creed will be meeting with Ms. Moll to review and revise the investigation and enforcement regulations.

Ms. Rubin stated that public notice and agenda laws must be followed because two commissioners meeting constitutes an ad hoc committee. She noted that

Investigator/Auditor Ginny Vida had written a memoranda detailing her experience in working with the complaint process. Ms. Vida also reviewed the procedures and annotated every section which is derived directly from the Charter and therefore cannot be changed by the Commission.

Ms. Moll stated that she could prepare a document for discussion that incorporates commissioners' and staff's ideas, or a memorandum comparing the different models of enforcement regulations from other Ethics Commissions and committees.

Commissioner Gordon-Creed suggested that the meeting focus on compiling as a package the ideas of commissioners and staff. He also suggested that Ms. Moll simply convey the information regarding the different models, rather than drafting it in a memoranda form.

Commissioner Melbostad stated that once the work is complete, the Commission should schedule a special meeting on this issue. He stated that the Commission is unfairly accused by the public of not taking action on complaints. He noted that a special meeting could serve to clarify to the public how cumbersome the investigation regulation process is.

After some discussion, it was agreed that Ms. Rubin would arrange a meeting date for Ms. Moll, Commissioner Gordon-Creed and Commissioner Melbostad.

XI. Agenda items for future meetings

Commissioner Dockendorff requested that the treatment of accrued expenditures with regard to electronic filing be placed as an agenda item for the November meeting. After some discussion, it was agreed to place this item on the November agenda.

XII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

There were no comments from the public.

The Commission began its closed session at 4:55 p.m.

XIII. Closed Session Pursuant to Ralph Brown Act, Section 54956.9 and Sunshine Ordinance Section 67.11, pending litigation

The Commission completed its closed session at 4:57 p.m.

XIV. Discussion and Possible Action Re: Disclosure of Closed Session Pursuant to Ralph Brown Act, Section 54957.1 and Sunshine Ordinance Section 67.14

96-10-17-58 (Gordon-Creed/Julian) Moved, Seconded and Passed: The Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XV. Adjournment

The Commission adjourned at 4:59 p.m.

Respectfully Submitted,

Cheryl Bernstein

Cheryl Bernstein
Whistleblower/Educator

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Approved 12/18/96

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Minutes of the
SAN FRANCISCO ETHICS COMMISSION MEETING
1390 Market Street.
Mezzanine Conference Room 227
November 12, 1996, 3:00 p.m.

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:01 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Robert Dockendorff; Commissioner; Joseph Julian, Commissioner; Paul H. Melbostad, Commissioner.

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Emily Baker, Campaign Disclosure Assistant; Cheryl Bernstein, Whistleblower/Educator; Ginny Vida, Investigator/Auditor; Deputy City Attorney Julie Moll, Office of the City Attorney

OTHERS PRESENT: Larry Bush; James Chaffee, Sunshine Ordinance Task Force; Gwenn Craig; Rick Hauptman, SF Relocation Appeals Board; Rod Loucks, CCSF-ISD; Anita Mayo, Pillsbury Madison & Sutro; Rich Rovetti, Office of the Mayor

DOCUMENTS DISTRIBUTED:
Agenda for November 12, 1996 Commission Meeting
Executive Director's Report, November 12, 1996
Approved Minutes of the September 9, 1996 Commission Meeting
Draft Minutes of the October 16, 1996 Commission Meeting
How an Ordinance Is Introduced and Approved by the Board of Supervisors
Draft Proposed Amendment to Bylaws: Article XI - Standards of Conduct
ISD Electronic Filing Timeline Chart, dated 11/10/96
Memorandum to Ethics Commission from Commissioner Brant T. Lee and Whistleblower/Educator Cheryl Bernstein re: Policy Issues, dated 4/8/96
Letter to Ethics Commission from Josie Mooney, Service Employees International Union, AFL-CIO, dated 10/25/96
1995-96 Directory of (State) Lobbyists, Lobbying Firms and Lobbyist Employers, May 1995, Secretary of State (sample of its content)
List of 1995-96 Lobbyists and Employers of Lobbyists by Category
Memorandum to Ethics Commission from Larry Bush re: Prop 208, 11/10/96
Letter to Commission Chair Virginia Gee from Supervisor Tom Ammiano, dated 11/12/96
Letter to Supervisor Tom Ammiano from Mayor Willie L. Brown, Jr., dated 11/1/96
Gov. Code Section 54954.5 re: Closed Session Item Description

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda. Anita Mayo, of Pillsbury Madison and Sutro, asked that the Commission help the public keep up with the ethics laws by including an item on the agenda when ethics advice or opinion letters are issued, with date indicated. Larry Bush asked that advice letters from the City Attorney's Office re: ethics matters be included. Commissioner Geoffrey Gordon-Creed suggested that all such documents that are not client-privileged be placed on the Commission's web site.

Larry Bush called attention to his memorandum to the Commission re: Proposition 208, a state ballot measure approved by voters in the November election which will take effect January 1, 1997. He asked that the Commission include a discussion of Proposition 208 on the agenda for its December meeting. He recommended that the Commission obtain an opinion from the FPPC and the City Attorney regarding the impact of this new measure. Mr. Bush's memorandum to the Commission notes provisions of Proposition 208, including one prohibiting local officials from receiving contributions from local lobbyists. Mr. Bush said that in view of increased costs to local government for implementation of Proposition 208, the Commission should approach the Board of Supervisors for a supplemental appropriation.

Commissioner Robert Dockendorff requested that the Commission ask the City Attorney to present a written opinion re: how Proposition 208 will affect San Francisco and the Ethics Commission. Executive Director Jane Rubin explained that the City Attorney is in the process of preparing an opinion. She confirmed that the matter will be placed on the next agenda.

III. Discussion and Possible Action Re: Minutes: Meeting of October 16, 1996. The minutes were reviewed and approved as amended through unanimous approval of the following motion:

96-11-12-59 (Gordon-Creed/Dockendorff) Moved, Seconded and Passed: That the minutes of the October 16, 1996 be approved as amended.

IV. Chairperson's Report. Commissioner Gee thanked Commissioner Dockendorff for providing a copy of the *Guide to City Hall*. She noted that the Commission office will make this available to the public. She also provided staff with a copy of the League of Women Voters' *Guide To City Hall* for office use.

Commissioner Gee presented to staff for office use a video of the October 15, 1996 Board of Supervisors meeting on the proposed Honest Election Ordinance.

At the request of Mike Housh, a letter from Supervisor Ammiano was presented to Commission Chair Gee by the Commission's Administrative Assistant Shawn Allison at the beginning of the meeting, with a request that the letter be read to those in attendance. In summary, the letter thanked the Commission and especially Commissioner Paul H.

Melbostad, for actions relating to the Honest Election Ordinance. Commissioner Gee subsequently requested that copies of the letter be made available to the public.

V. Director's Report.

A. Updates

B. Projects and Activities

Executive Director Jane E. Rubin reported that she had attended two meetings to further the project of establishing campaign financial data on the Commission's website. On October 17 she met with a representative of ISD in the Controller's Office. On October 28 she and the ISD representative met with Glenn Luxenberg of SDR.

Ms. Rubin reported that three staff members of the Commission will attend the FPPC's campaign finance conference on November 20. A discussion of Proposition 208 is expected.

Ms. Rubin advised that the first and second pre-election statements had been filed. Staff are reviewing these under the Campaign Finance Reform Ordinance and will take appropriate action on problems or violations. The Commission office was open on the Saturday prior to the November election.

Ms. Rubin announced that a committee meeting to review proposed changes in the Regulations for Investigations and Enforcement has been scheduled for December 20, 1996. This will be noticed as a special meeting of the Commission.

Commissioner Dockendorff requested format and content changes in the Executive Director's report. He asked that the report be made more concise by eliminating items previously reported, but also requested that certain information be added, including a line item budget to allow for closer budgetary tracking, a log indicating receipt and disposition of complaints received, and a description of current staff projects. Commissioner Dockendorff inquired about Commission approval of out-of-state staff travel and was informed that the Commission had approved such items as part of the budget.

Commissioner Dockendorff asked that a finance committee be established and volunteered to serve on it. Commissioner Gee appointed both Commissioner Dockendorff and Commissioner Gordon-Creed to serve on the Finance Committee.

Ms. Rubin noted that a complaint log or report would require a format that does not violate confidentiality provisions of the Charter. It was agreed that Julie Moll will work with Ms. Rubin to develop an appropriate form of reporting.

Larry Bush stated that the complaint tracking log should be made available to the public as long as it does not violate confidentiality.

Commissioner Gordon-Creed, referring to an editorial in today's San Francisco Examiner, stated that the editorial reflects a misunderstanding of the power and role of the Ethics Commission. He said the public tracking report may help correct this misunderstanding.

VI. Discussion and Possible Action Re: Development of Web Site for Electronic Filing.

Rod Loucks, Manager of New Technology, Department of Telecommunications, a unit of the Controller's Office, reported on what ISD will undertake to do to assist the Commission with electronic filing of campaign disclosure statements. He noted that reports are currently being filed in many formats. ISD will standardize filing formats, saving manual intervention. It will also install security measures to ensure the integrity of the data. ISD anticipates installation of the Commission's software at its web site by early February. In mid-March the system will be tested to see if it is working. The Commission will be able to process its first filings in July 1997.

Commissioner Dockendorff stated that SDR has not delivered services as promised, and that San Francisco State University would have been a more suitable choice. He said SF State's proposal had not been given adequate consideration.

Ms. Rubin advised that SF State had not addressed its proposal to the Commission, but that its proposal had been considered during the budget process in discussions with the Mayor's Budget Office. She noted that SF State had asked $60,000 for its services, and that the Mayor's Office had decided not to fund the proposal. Commissioner Dockendorff said that the decision to fund ISD at $25,000 would end up costing $50,000.

Mr. Loucks stated that ISD has a large, capable staff of professionals. Commissioner Dockendorff stated that while this may be the case, ISD's staff is very busy and has limited time available.

Per a request from Commissioner Julian, Commissioner Dockendorff said he would provide Commissioner Dockendorff with information on which unit at SF State had made a proposal.

Larry Bush stated that Supervisor Roberta Achtenberg had pushed through legislation to require electronic filing. He said SDR was awarded the grant but did not provide the services promised. He said a contract was never put out to bid with public notice. He said SF State's proposal had not been given adequate consideration, and that the Board of Supervisors should have been approached to provide the funding requested by SF State.

Ms. Rubin advised that the agreement with SDR was not a sole source contract. SDR was contracted to develop a standardized form for filing for candidates. There were problems with conversion of the disks filed. At the same time SDR began this process, the Voter Registration Foundation discontinued providing that service. SDR then agreed

to maintain the Commission's web site, free of charge, by replicating search engines that the Voter Registration Foundation was using. Ms. Rubin said she expects problems to be remedied by ISD.

Ms. Rubin advised that SDR has in fact produced a standardized format, PDSERF, which filers can download and attach to their software. With this in place, ISD would be taking over the serving of the data. Ms. Rubin said that many of the Commission's filers were using Disk-kloze, which may not be compatible with PDSERF. The Commission's present budget includes a $25,000 work order for ISD for maintenance and upkeep of the web site, plus $5,000 for hardware at the Ethics Commission. If the Commission wants to enlist the services of SF State or another vendor, the Commission would have to make a budget request, and a contract would be subject to bid. Ms. Rubin said, however, that she believes ISD is capable of performing the services required.

Larry Bush stated that the Commission's minutes indicate that the Commission also has a $12,000 contract with SDR. He said there was no bid put out for this year, but only in the previous year.

Ms. Rubin explained that SDR's contract was for a standardized filing format, which SDR produced. SDR had a relationship with the Registrar's Office; they had already drawn up an RFP, the bid for which was won by SDR. The contract may have been signed later because of technicalities.

Commissioner Gee appointed Commissioner Dockendorff to be the Commission's lead person on the matter of electronic filing, which ties in closely with finance.

Commissioner Melbostad urged that the Commission switch gears and go for on-line filing rather than complete the current program. Commissioner Gee then asked Commissioner Dockendorff to provide the Commission with a recommendation for a needs analysis. Commissioner Dockendorff asked Ms. Rubin to provide a report on the history of, and future plans for, the Commission's electronic filing project.

VII. Discussion and Possible Action Re: Impact of Campaign Consultant Ordinance on the Ethics Commission. Ms. Rubin noted that the Ordinance had been approved by the Board of Supervisors but had been vetoed by the Mayor. A vote to override the veto may be scheduled in two weeks.

Commissioner Melbostad said that the Mayor, in his veto message, had indicated that he would sign the Ordinance if it included an amendment proposed by Supervisor Susan Leal. The amendment would require officials to recuse themselves if their lobbyist came before the Board as a paid lobbyist. Commissioner Melbostad noted, however, that the amendment appears not to include all officials. It was noted that the amendment is not acceptable to Supervisor Ammiano. Commissioner Gee asked Commissioner Melbostad to work with Commissioner Gordon-Creed, the Commission's lead person on legislative matters, to monitor this proposal. It was noted that the time period for a vote to override

the Mayor's veto will expire prior to the Commission's next meeting. Larry Bush stated that it would be appropriate for the Commission to respond to the veto and the proposed amendment. He suggested that the Commission seek a copy of an opinion issued by the City Attorney regarding the responsibility of elected officials to carry out their duties.

Commissioner Julian noted that Supervisor Tom Ammiano had been quoted as saying that he would seek to put the measure on the ballot if there was no override of the veto. Commissioner Melbostad said that the Board of Supervisors or the Ethics Commission could also put the measure on the ballot.

Commissioner Melbostad stated that Supervisor Leal's recusal proposal is quite different from the original legislation and would require deliberation. He suggested that the Chair could write to Supervisor Leal and ask if her amendment is intended to affect all officials. Commission Chair Gee noted that a special meeting of the Commission could be called to address this matter. Deputy City Attorney Julie Moll offered to prepare an analysis of the legal issues involved in advance of a special meeting.

Larry Bush, referring to the January minutes, stated that the Commission has failed to make legislative recommendations to the Mayor and the Board of Supervisors. He suggested that the Commission should set a timetable to fulfill this Charter mandate.

Commissioner Melbostad noted that the Commission had devoted much time to discussion of the Ordinance, but may have to respond more quickly to proposals by meeting more often than once a month. Commissioner Melbostad requested that staff immediately forward to Commission members copies of documents related to proposed legislation when such documents are received.

Gwen Craig expressed concern about the tenor of the discussion. She urged the Commission to hold meetings at a time more accessible to the public. She also urged the Commission to exercise its mandate by acting on Supervisor Leal's amendment. She asked that related documents be obtained and made available in advance of a special meeting on this proposal. Commissioner Melbostad asked Ms. Craig to continue to communicate with the Commission on matters of concern.

Further discussion of the Campaign Consultant Ordinance was deferred to the December meeting, when a report on State Proposition 208 will be available.

VIII. Discussion and Possible Action Re: Representation of the Ethics Commission. Commissioner Gordon-Creed distributed a proposed amendment to the by-laws intended to clarify and minimize confusion about representation of the Commission to the public. Ms. Rubin stated that the by-laws cannot be amended without notice to the public; therefore, a vote taken today would have to be a vote of intention to amend the by-laws.

Commissioner Melbostad said he opposed an amendment of this nature, which he said did not merit time on the Commission's agenda and was directed toward him personally.

He expressed concern that the Commission had not responded to a misrepresentation of him in a letter sent by Jim Sutton to the Board of Supervisors. He also said commissioners should be encouraged to promote a visible role for the Commission by conveying its positions and activities publicly.

Commissioner Gordon-Creed noted that there is potential for confusion regarding whether the position of the Commission or that of an individual commissioner is being represented when a commissioner make public comments on a particular issue. Commissioner Gordon-Creed stated that there is merit in having a code of conduct for commissioners on this issue, given the fact that the Commission's endorsement of proposed legislation is likely to lend credibility to the proposed legislation.

Commissioner Julian suggested that an *ad hoc* committee be appointed to draft a substantive amendment to the by-laws that incorporates situations where the Commission's position is being represented to an official body or the media, and also in situations where the Commission should take corrective action in regard to misrepresentation.

It was agreed to move the matter to committee. The following motion was approved unanimously:

96-11-12-60 (Dockendorff/Julian) Moved, Seconded and Passed: That an *ad hoc* committee be appointed to develop a proposed by-law amendment re: representation of the Commission and response to misrepresentation of the Commission, and that the matter be calendared for the next regularly scheduled meeting, with public notice.

Commissioner Gee appointed Commissioners Gordon-Creed and Julian to serve on the *ad hoc* committee re: proposing a by-laws amendment.

A member of the public expressed doubt that other commissions have provisions in their by-laws limiting their members' speech. She suggested that the Ethics Commission research other commissions' by-laws.

Larry Bush stated that the Commission's failure to respond to misrepresentation of its positions and to allegations that only gays wanted the Honest Election Ordinance passed had left certain persons vulnerable.

The Commission adjourned for a break at 5:15 p.m. Commissioner Gee called the meeting to order at 5:25 p.m.

IX. Discussion and Possible Action Re: Expansion of Lobbyist Registration. Agenda item No. IX, regarding expansion of lobbyist registration, was briefly discussed. A question was raised as to why unions were not registering. Deputy City Attorney Julie Moll advised that unions are not exempt from the registration requirement but they

cannot be regulated in any way that conflicts with federal labor laws. Larry Bush said he would make available a copy of a Florida law requiring lobbyists to fill out a form when they lobby. He also referred to a 1993 memo issued by the City Attorney re: lobbyist registration. Further discussion of lobbyist registration and regulation was deferred until the December meeting.

X. Discussion and Possible Action Re: Accrued Expenditures

- **a) treatment as contributions**
- **b) time limitations on repayment**
- **c) amendment of electronic filing ordinance to include late contributions and expenditures**

Item X, relating to accrued expenditures, was recalendared for the December Commission meeting, to be incorporated with the discussion of Proposition 208.

XI. Discussion and Possible Action Re: Commission Meetings. Commissioner Dockendorff urged that Commission meetings begin at 5:00 p.m. or later to allow persons who work to attend. He also urged that the Commission meet twice a month on a regular basis to address its workload. Commissioner Gee read an editorial from today's San Francisco Examiner urging the Commission to meet more often.

Executive Director Rubin noted that additional meetings will expand the staff's workload re: preparation and follow-up, and that with the exception of the Director, staff will need to be compensated with time off for evening hours worked. Commissioner Melbostad suggested that staff rotate participation at meetings.

Commissioner Gordon-Creed stated that evening meetings could possibly make public participation more likely. He suggested, however, that the Executive Director and staff be consulted regarding the added burden that additional evening meetings would place on staff time, and whether evening meetings would conflict with staff members' other commitments.

The following motion was approved unanimously:

96-11-12-61 (Dockendorff/Julian) Moved, Seconded and Passed: That beginning in January 1997 and continuing for a three-month interim period through March 1997, the Ethics Commission meet the second and fourth week of the month at 5:00 p.m., the specific day of the week to be determined in accordance with commissioner and staff availability.

Commissioner Melbostad asked Ms. Rubin to consult with other small commissions that have a small staff about their meeting schedules.

XII. Discussion and Possible Action Re: Letter from SEIU, dated October 25, 1996. Agenda Item No. XII, regarding a letter received from SEIU, was recalendared for the December meeting. It was requested that staff notify SEIU. Commissioner Melbostad requested that major donor requirements and enforcement as defined by state election law, and other major issues raised by the SEIU letter, be placed on the December agenda. Commissioner Gordon-Creed suggested that other items raised in the SEIU letter could be addressed in a letter of response to SEIU.

XIII. Agenda Items for Future Meetings.

A request was made to add a report on Proposition 208 to the December agenda.

XIV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda.

Larry Bush requested that an item be added to the December agenda re: increasing fees.

James Chaffee said that the Commission's notice of closed sessions needs to be revised to comply with laws regarding access to public meetings. He advised that a vote must be taken before going into closed session.

Deputy City Attorney Julie Moll stated that special considerations apply to the Commission because of the Charter requirement that complaints be kept confidential.

Commissioner Melbostad introduced Rick Hauptman, of the SF Relocation Appeals Board.

It was agreed that the closed session scheduled for today's meeting would be rescheduled for Monday, November 25, at 3:00 p.m. The meeting will be properly noticed.

Today's meeting was adjourned at 6:24 p.m.

Respectfully submitted,

_____
Ginny Vida
Investigator/Auditor

min111126.doc gvs

Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SF
E90
#1
11/25/96
Special

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF SPECIAL MEETING
MONDAY, NOVEMBER 25, 1996, 3:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM
SAN FRANCISCO

DOCUMENTS DEPT.

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I. **Call To Order and Roll Call**

II. **Public comment on matters appearing or not appearing on the agenda.**

III. **Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session.**

IV. **Possible closed session held pursuant to Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11:**

Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 1
1 as plaintiff
0 as defendant

V. **Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.**

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

VI. **Public comment on matters appearing or not appearing on the agenda.**

VII. **Adjournment**

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance contact the Sunshine Ordinance Task Force at 554-6075.

This location is wheelchair accessible. In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity, or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR WEDNESDAY, DECEMBER 18, 1996, 3:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

PLEASE NOTE CHANGE OF DAY AND DATE

I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III. Discussion and Possible Action Re: Minutes: Meetings of Nov. 12 and Nov. 25, 1996

IV. Chairperson's Report
- A. Meeting Process
- B. General Announcement(s)

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V. Director's Report
- A. Advice and Opinions issued
- B. Updates
- C. Projects and Activities

VI. Discussion and Possible Action Re: Update with Center for the Common Good
Martin Paley, Director

VII. Discussion and Possible Action Re: Development of Web Site
- A. Electronic Filing
- B. Election Law
- C. Campaign Reporting Database

VIII. Discussion and Possible Action Re: Legislation
- A. Impact of State Proposition 208
- B. Honest Election Ordinance Follow-up
- C. Development of Recommendations to the Mayor and Board of Supervisors Re: Legislation

IX. Discussion and Possible Action Re: Report of Ad Hoc Committee for Bylaws Revision To Clarify Representation of the Commission.

X. Discussion and Possible Action Re: Increasing Compliance with Lobbyist Registration Requirements

XI. Discussion and Possible Action Re: SF Ethics Commission Budget
- A. Monitoring Procedures
- B. Preliminary FY 1997/98 Budget Proposal
- C. Draft Outlines for FY 98/99 and FY 99/00

XII. Discussion and Possible Action Re: Fees, Penalties and Fines
A. Registration and filing fee schedules
B. Late filing penalties
C. Fines for non-compliance with registration requirements

XIII. Discussion and Possible Action Re: Complaint Form

XIV. Discussion and Possible Action Re: Major Donors and Other Concerns Raised in Letter from S.E.I.U. dated October 25, 1996

XV. Discussion and Possible Action Re: Commisison Meetings for 1997
A. Calendar of 1997 meetings
B. Agenda items for future meetings

XVI. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XVII. Discussion and Vote Pursuant to Sunshine Ordinance Section 67.11 (a) as to Whether To Conduct a Closed Session.

XVIII. Possible Closed Session Held Pursuant to Brown Act Section 54956.9 (c) and Sunshine Ordinance Section 67.11:
Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 5
5 as plaintiff
0 as defendant

XIX. Discussion and Vote Pursuant to Brown Act Section 54957.1 and Sunshine Ordinance Section 67.14 on Whether to Disclose Action Taken or Discussions Held in Closed Session.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

XX. Adjournment

Know Your Rights Under the Sunshine Ordinance

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MINUTES OF THE SAN FRANCISCO ETHICS COMMISSION MEETING

1390 Market Street
Mezzanine Conference Room 227
December 18, 1996

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 3:08 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Robert Dockendorff, Commissioner; Joseph Julian, Commissioner; Paul H. Melbostad, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Ginny Vida, Investigator/Auditor; Cheryl Bernstein Reiss, Whistleblower/Educator; Shawn Allison, Administrative Assistant; Deputy City Attorney Julie Moll, Office of the City Attorney

OTHERS PRESENT: Larry Bush; Peter Byrne, SF Investigator; James Chaffee; Kate Lynch, Nielsen, Merksamer et al; Rod Loucks, ISD; Anita Mayo, Pillsbury, Madison & Sutro; Josie Mooney, SEIU; Martin Paley, Center for the Common Good; David Pilpel; Rich Rovetti, Mayor's Office; John Taylor, Board of Supervisors

DOCUMENTS DISTRIBUTED:

San Francisco Ethics Commission Agenda
Executive Director's Report to the San Francisco Ethics Commission
Letter from Josie Mooney, Deputy Director of the SEIU
Memo regarding Expansion of Lobbyist Registration
Draft of the Proposed Amendment to Bylaws
Report on Electronic Filing and Web Site Development
Draft of Complaint Procedure
Letter from Larry Bush regarding Florida Laws
Memo regarding Summary of Legislative and Policy Recommendations by the Ethics Commission
October 16, 1996 Minutes
November 12, 1996 Draft Minutes
November 25, 1996 Draft Minutes
Summary of Advice Letters Issued by the Ethics Commission as of December 17, 1996
FPPC Document regarding CA Campaign Finance: State Law as Changed by Prop 208
Memo from Larry Bush on the Development of Recommendations to the Mayor and Board of Supervisors regarding legislation

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

Josie Mooney, SEIU Deputy Director, stated that she appreciated the opportunity to speak before the Commission. She stated that she wished to respectfully disagree with the Commission's

position regarding disclosure of the status of complaints and the filing requirements of major donors.

Ms. Mooney asked that the Commission set a deadline for complying with the mandate to make recommendations to the Mayor and the Board of Supervisors regarding legislation and for responding to her request for a report on the sufficiency of lobbyist reports. Ms. Mooney offered to aid the Commission in pursuing a budget increase and suggested that the Commission consider increasing its fees and fines.

Commissioner Melbostad responded that the issues raised in the SEIU letter had been placed on the December agenda because the Commission shared her concerns.

III. Discussion and Possible Action Re: Minutes: Meetings of Nov. 12 and Nov. 25, 1996

Commissioner Gee made several corrections to the November 12, 1996 draft minutes.

96-12-18-62 (Julian/Dockendorff) Moved, Seconded and Passed: That the minutes of November 12, 1996 be approved as amended.

96-12-18-63 (Gordon-Creed/Julian) Moved, Seconded and Passed: That the minutes of November 25, 1996 be approved.

Commissioner Melbostad abstained because he was not present for that meeting.

IV. Chairperson's Report

A. Meeting Process
B. General Announcement(s)

Commissioner Gee suggested that the Commission review the Code of Ethics adopted by the Commission. She noted that a copy of the Code is in the Commission brochure. She asked that participants be respectful of one another during discussions. She noted that only constructive and productive feedback would be permitted. She reminded the members of the public that there are many opportunities to present their viewpoints during the meeting. It was agreed that a time limit of three minutes would be imposed regarding public comment.

Commissioner Gee asked that the letter from Supervisor Ammiano be entered into the record and made available to the public. It was agreed to assess how to respond to his letter upon completion of the meeting's agenda.

Commissioner Gee noted that Landis Whistler had recently passed away. Mr. Whistler was a strong supporter of the Ethics Commission. She suggested that the Commission dedicate this meeting to him.

96-12-18-64 (Melbostad/Gordon-Creed) Moved, Seconded and Passed: That the meeting be dedicated in Landis Whistler's honor.

V. Director's Report

A. Advice and Opinions issued

B. Updates
C. Projects and Activities

Ms. Rubin stated that a document listing the advice letters issued by the Commission was available. She noted that this list will be maintained on a monthly basis.

She reported that the minutes of the September and October Commission meetings are posted on the web page. She stated that the minutes of every Commission meeting during 1996 will be available on the web page soon.

Ms. Rubin reported that a letter had been sent to all filers regarding the January 31, 1997 filing deadline. The letter included detailed information about the procedure for terminating a committee.

Ms. Rubin reported that she attended the COGEL conference in Philadelphia December 9-11, 1996. She made a presentation as a panelist regarding the effect of the Campaign Finance Reform Ordinance on the November 1996 election.

VI. Discussion and Possible Action Re: Update with Center for the Common Good
Martin Paley, Director

Commissioner Gee gave a brief history of the relationship between the Commission and the Center for the Common Good.

Mr. Paley began his presentation by commenting on the important nature of the work of the Commission. He noted that past retreats with the Center have focused on substantive issues as well as procedural ones.

He offered a work plan agenda consisting of five items: (1) stakeholders; organization and management; policy and program development; priorities; and the effectiveness of the Ethics Commission.

He stated that the following elements constitute the item "stakeholders": appointing authorities; elected officials; appointed officials; employees and the community.

He stated that four factors make up the item "organization and management": review of Commission values and ethics; roles and responsibilities of the Commission; roles and responsibilities of the staff; and structure and process.

He stated that two components form the item "policy and program development": identification of key issues requiring a statement of policy and the Ethics Commission program for 1997-1998.

He stated that two issues compose the item "priorities": identifying criteria for setting priorities and defining a process for applying the criteria.

He stated that two matters are involved in the item "effectiveness of the Ethics Commission": identifying criteria for assessing the performance of the Commission and defining a process for applying the criteria.

Commissioner Gee expressed the Commission's appreciation for Mr. Paley's presentation. She

noted that her primary concern is staff and Commissioner burn-out. Ms. Rubin commented that she found the previous work with the Center to be both useful and productive.

It was agreed to revisit the issues raised by Mr. Paley's presentation in a future Commission meeting for appropriate follow-up.

VII. Discussion and Possible Action Re: Development of Web Site

A. Electronic Filing
B. Election Law
C. Campaign Reporting Database

Commissioner Dockendorff urged the Commission to push to make the concept of a standard filing format a reality in California. He cautioned the Commission to make sure that the state isn't producing a standard filing format while the Commission is working on a local standard format. He suggested that the Commission reference the web page at digital.sunlight. org.

He stated that the overall goal is on-line filing. Ms. Rubin responded that she had observed the on-line filing process at the COGEL conference. She noted that the establishment of such systems, such as the one in Hawaii, is extremely costly. Rod Loucks of ISD stated that the data is available. He stated that the pertinent issue is loading the database with the information. He stated that the Commission needs to do a technical assessment in order to determine the status of this project.

After some discussion, it was agreed that ISD will move forward with its analysis.

VIII. Discussion and Possible Action Re: Legislation

A. Impact of State Proposition 208
B. Honest Election Ordinance Follow-up
C. Development of Recommendations to the Mayor and Board of Supervisors

Re: Legislation

A. Impact of State Proposition 208

Ms. Moll noted that the memorandum given to the Commissioners is an attorney-client privileged document and is therefore confidential. Commissioner Melbostad stated that he would like to make the document public.

96-12-18-65 (Melbostad/Dockendorff) Moved, Seconded and Passed: That the attorney-client privileged document be released to the public. The Commission does not waive the right to assert the attorney-client privilege in the future with regard to oral and/or written advice from the City Attorney.

Copies of the document were made available at the meeting. Copies of a document by the Fair Political Practices Commission on Proposition 208 were also made available.

Ms. Moll summarized Proposition 208 and outlined its effect on the Campaign Finance Reform Ordinance. She noted that the City Attorney is waiting on the FPPC to comment on several issues. Although Proposition 208 goes into effect on January 1, 1997, the next

election at which candidates will be elected in San Francisco would be held in November. She also noted that any regulations the Commission passes must go before the Board of Supervisors for a 60 day period. In addition, the issue of Proposition G (district elections) will not come into play for a number of years.

Ms. Rubin indicated that one of the main tasks for the Commission will be an educational one. Ms. Moll stated the Lobbyist Manual and Forms will need to be amended regarding Proposition 208. Commissioner Gordon-Creed asked whether the staff could modify the memorandum produced by Ms. Moll into a document suitable for use by filers and for posting on the Commission web page. Ms. Rubin suggested that the Commission involve the Department of Elections in this educational task.

Ms. Moll agreed to work with the staff to prepare recommendations for local regulations concerning local implementation of Proposition 208.

Mr. Bush requested that the Commission send out a letter to all registered lobbyists regarding the restrictions on lobbyist activity imposed by Proposition 208. Commissioner Gordon-Creed suggested that Ms. Rubin work with Ms. Moll to identify relevant changes which take effect on January 1, 1997. He stated that the Commission should send out a letter and post it on the web page. He said that a more detailed package of information should follow.

B. Honest Election Ordinance Follow-up

After some discussion, it was agreed to obtain a copy of Supervisor Leal's amendment to the Honest Election Ordinance and to follow-up on this item at the next Commission meeting.

C. Development of Recommendations to the Mayor and Board of Supervisors

Re: Legislation

Commissioner Gordon-Creed stated that this issue may be best addressed by a special meeting or its own agenda item at a regular Commission meeting. Commissioner Melbostad stated that Mr. Bush had drafted a memorandum on suggested recommendations for the Commission to make to the Board. He noted that the Commission should seek input from other sources as well.

Commissioner Gee expressed the Commission's appreciation to Mr. Bush for his memorandum. She referred the document to staff. Commissioner Gordon-Creed suggested that staff work with Ms. Moll to create a list of legislative matters to serve as a discussion document at one of the January Commission meetings. Commissioner Gee stated that the Commission should also develop some procedural guidelines for dealing with this project.

IX. Discussion and Possible Action Re: Report of Ad Hoc Committee for Bylaws Revision to Clarify Representation of the Commission

96-12-18-66 (Melbostad/Gordon-Creed) Moved, Seconded and Passed: That the draft of the proposed amendment to the by-laws be moved on for public notice so that there can be input at the next meeting.

Commissioner Dockendorff voted no on the motion.

Commissioner Julian's suggestion to reverse the order on the amended by-laws was accepted. Mr. Bush's suggestion to add the word "proceedings" was not accepted.

X. Discussion and Possible Action Re: Increasing Compliance with Lobbyist Registration Requirements

Ms. Bernstein Reiss summarized her memorandum regarding expansion of lobbyist registration. After some discussion, it was agreed that staff should prepare specific proposals for the Commission's consideration at one of the January meetings.

XI. Discussion and Possible Action Re: Fees, Penalties and Fines

A. Registration and filing fee schedules
B. Late filing penalties
C. Fines for non-compliance with registration requirements

Commissioner Dockendorff stated that the Commission needed staff input on this issue. Mr. Bush noted that the Controller provides a report on all the fees and fines in City and County government. It was agreed to address this issue at a future meeting when additional information would be available from staff.

XII. Discussion and Possible Action Re: Major Donors and Other Concerns Raised in Letter from S.E.I.U. dated October 25, 1996

There was some debate as to the scope of discussion that could take place with respect to the confidentiality laws surrounding complaints. It was decided that the matters raised in the letter could be spoken about without discussing the specifics of the complaint.

Mr. Bush stated that he had been asked to speak on behalf of the SEIU in Ms. Mooney's absence. Mr. Bush conveyed concerns regarding the following: complaint process; fees and fines; campaign finance database; reports on sufficiency of compliance by lobbyists, candidates and committees; electronic filing; and major donors.

Ms. Moll stated that a serious legal question exists regarding the Commission's ability to fine major donors. The City Attorney has asked the FPPC for advice as to whether the Department of Elections or the Commission is the proper filing officer and therefore the appropriate authority to levy fines.

It was agreed that Commissioner Melbostad would work with Ms. Rubin to draft a response under the Chair's signature to the letter from S.E.I.U. dated October 25, 1996.

Ms. Mayo stated that the clients of Pillsbury, Madison & Sutro file as major donors where and when it is appropriate. She stated that the electronic ordinance does not apply to major donor filers because they are not recipient committees.

It was agreed that Commissioner Dockendorff would work with Commissioner Melbostad and Ms. Rubin on the issues of major donors and electronic filing.

96-12-18-67 (Melbostad/Julian) Moved, Seconded and Passed: That staff be directed to send letters to the list provided by Mr. Bush. The letter shall inform major donors of filing requirements. Staff shall report back at the February meeting regarding the response to the mailing.

It was agreed that the issue of electronic filing by major donors would be a recommendation in the report to the Board of Supervisors.

XIII. Discussion and Possible Action Re: Complaint Form

It was agreed to carry this agenda item over to the January meeting.

XIV. Discussion and Possible Action Re: Commission Meetings for 1997

A. Calendar of 1997 meetings
B. Agenda items for future meetings

It was agreed that the Commission would meet the second and fourth Monday at 5:00 p.m. from January through March.

It was also agreed to carry over the appropriate agenda items to the January meeting.

XV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

Mr. Pilpel requested that the Commission doubleside copies of documents in order to save paper. He also requested that the Commission make available to the public the same packet of materials that the Commissioners receive. He noted that other government agencies determine the costs involved in producing the packet and offset the costs by allowing members of the public to subscribe.

XVI. Discussion and Vote Pursuant to Sunshine Ordinance Section 67.11(a) as to Whether to Conduct a Closed Session

Mr. Chaffee stated that the Commission should identify the parties involved in the agenda items regarding anticipated litigation. He stated that the only time the Commission should not identify a party is if there is a significant danger that a party might skip town to avoid service of process.

Ms. Moll responded that the Charter states that the Commission can not discuss complaints. Mr. Chaffee suggested that the Commission include the Charter language in its agenda items regarding closed sessions.

96-12-18-68 (Gordon-Creed/Julian) Moved, Seconded and Passed: That the Commission should go into closed session.

The Commission began its closed session at 6:55 p.m.

The Commission completed its closed session at 7:12 p.m.

XVII. Discussion and Vote Pursuant to Brown Act Section 54957.1 and Sunshine Ordinance Section 67.14 on Whether to Disclose Action Taken or Discussions Held in Closed Session

96-12-18-69 (Gordon-Creed/Julian) Moved, Seconded and Passed: That the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

The Commission went into open session at 7:13 p.m.

It was agreed that Ms. Rubin would draft an interim response to the letter from Supervisor Tom Ammiano's office dated December 16, 1996. The purpose of the interim response will be to acknowledge receipt of the letter and convey that a more substantive letter from the Commission will follow. The interim response will also contain an invitation for Supervisor Ammiano to come and speak to the Commission.

XVIII. Adjournment

96-12-18-70 (Gordon-Creed/Julian) Moved, Seconded and Passed: That the Ethics Commission meeting shall adjourn.

The meeting adjourned at 7:29 p.m.

Respectfully submitted,

_____

Cheryl Bernstein Reiss
Whistleblower/Educator

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